



## **INCORPORATION OF EVIDENTIARY DOCUMENT**

For the convenience of this honorable Court, and to minimize Relator's mounting clerical and postage expenses, the United States refers this Court to the following Internet URL and incorporates same by reference, as if set forth fully here, to wit:

[http://www.ustreas.gov/irs/ci/tax\\_fraud/docnonfilers.htm](http://www.ustreas.gov/irs/ci/tax_fraud/docnonfilers.htm)

If this Court should so order, the United States will oblige by serving certified hard copies of the above document on all interested parties and on the Clerk of this Court. See PROOF OF SERVICE *infra*.

In a section headed by the phrase "Just the Facts:" [sic], the above document makes the following false statement:

The Internal Revenue Service (IRS) was established on July 1, 1862, by an **act of Congress**.

[**bold** emphasis added]

The United States contests this statement, in part by reference to footnote 23 in the published opinion of the U.S. Supreme Court in Chrysler Corp. v. Brown, 441 U.S. 281, fn. 23 (1979).

The United States hereinafter relies upon said footnote formally to refute the false statement quoted above.

Moreover, no one should be punished unnecessarily for relying upon the decisions of the U.S. Supreme Court. *U.S. v. Mason*, 412 U.S. 391, 399-400 (1973). Relator's research corroborates footnote 23.

The formal record now before this Court leaves absolutely no doubt that the IRS was never created by any Act of Congress. Specifically, on July 9, 1953, Secretary of the Treasury G. K. Humphrey changed the name of the Bureau of the Internal Revenue ("BIR") to "Internal Revenue Service" when he signed what is now Treasury Order 150-06. This was his infamous "flick of the pen."

1                   **ALL SIMILAR STATEMENTS FALSELY DESIGNATE THE**  
2                   **TRUE ORIGINS OF THE INTERNAL REVENUE SERVICE**

3                 Pursuant to the Commerce Clause and the Lanham Act at 60 Stat.  
4                 440 (uncodified at 15 U.S.C. 1121), this honorable Court also has  
5                 original jurisdiction to adjudicate regulation of interstate commerce,  
6                 and to enjoin and sanction any and all of the following:

- 7                 (1) false designations of the origins of the tradenames and  
8                 trademarks of articles and organizations operating in  
9                 interstate commerce;
- 10                (2) false and misleading descriptions of fact in connection  
11                with the tradenames and trademarks of articles and  
12                organizations operating in commerce; and,
- 13                (3) false and misleading representations of fact in connection  
14                with the tradenames and trademarks of articles and  
15                organizations operating in commerce.

16               This Court is also authorized by the Lanham Act to impose a  
17               sanction of treble (triple) damages against the IRS and its  
18               principals, for its deliberately false designations of its own  
19               origins, for its deliberately false and misleading descriptions of  
20               fact, and for its deliberately false and misleading representations of  
21               fact in connection with the administration of the federal income tax  
22               throughout the United States of America, the District of Columbia,  
23               U.S. Possessions and Territories, and all federal enclaves.

24               One legislative intent of the Lanham Act is to protect the public  
25               from false designations of origin, from false and misleading  
26               descriptions of fact, and from false and misleading representations of  
27               fact in matters of interstate commerce. See Follett v. Arbor House  
28               Publishing Co., 497 F.Supp 304, 313, 208 USPQ 604, for example.

29               There is no question that the IRS is engaged in interstate  
30               commerce. See all Agreements on Coordination of Tax Administration as  
31               consummated with the taxing agencies of the 50 States, for example.

AS AN ALIAS FOR TRUST #62 IN PUERTO RICO,  
IRS ALSO VIOLATES THE SHERMAN ANTITRUST ACT

The verified record now before this honorable Court, and numerous other State and federal courts, makes it very clear that the IRS, as we know it today, is actually an alias for Trust #62. See 31 U.S.C. 1321(a)(62). This trust is presently domiciled in Puerto Rico, under color of the former Federal Alcohol Administration ("FAA").

In the present context the following paragraph is a crucial point of fact that remains unrebutted by IRS officials and the Congress:

Under the Reorganization Plan Number 3 of 1940 which appears at 5  
United States Code Service, Section 903, the Federal Alcohol  
Administration, and offices of members and Administrator thereof,  
were abolished and their functions directed to be administered  
under direction and supervision of the Secretary of the Treasury  
through the Bureau of Internal Revenue. We found this history in  
all of the older editions of 27 U.S.C.S., Section 201. It has  
been removed from current editions. Only two Bureaus of Internal  
Revenue have ever existed: one in the Philippines and another in  
Puerto Rico. Events that have transpired tell us that the  
Federal Alcohol Administration was absorbed by the Puerto Rico  
Trust #62.

[ "BATF/IRS -- Criminal Fraud," by William Cooper]  
[Veritas, Issue Number 6, September 1995]

27 The United States argues that the prohibited monopoly practices  
28 systematically inflicted upon the American People by the IRS do  
29 blatantly violate the Sherman Antitrust Act, calling for appropriate  
30 judicial review, immediate oversight and timely relief from the  
31 concomitant restraint of trade. See Attachment "A" *infra*.

32 As a threshold matter, IRS Agreements on Coordination of Tax  
33 Administration ("ACTA") were consummated without the competitive  
34 bidding that is a legal requirement for service contracts issued by  
35 the governments of the several States. IRS is a monopoly enterprise.

36 Those ACTA agreements are also demonstrably fraudulent.

The United States argues and hereby offers to prove that ACTA agreements falsely designate IRS as an agency of the U.S. Department of the Treasury. In Section 2 entitled "Definitions" in the IRS template for its ACTA agreements, yet another false statement is made:

The term "IRS" means the Internal Revenue Service, U.S. Department of Treasury.

[**bold** emphasis added]

See 5 U.S.C. 551(1)(C), in chief, and the following Internet URL:

<http://www.supremelaw.org/rsrca/acta/30455c.htm#template>

(If this Court should so order, the United States will oblige by serving certified hard copies of the above document on all interested parties and on the Clerk of this Court. See PROOF OF SERVICE *infra*.)

It necessarily follows that IRS is perpetrating, under color of official right, a variety of monstrous monopoly practices that are expressly prohibited by the Sherman Act of 1890, as amended.

The Sherman Act also confers original jurisdiction upon this honorable District Court of the United States ("DCUS"). See the detailed elaboration of this point at the following Internet URL:

<http://www.supremelaw.org/cc/microsoft/index.htm>

(If this Court should so order, the United States will oblige by serving certified hard copies of the above referenced documents on all interested parties and on the Clerk of this Court.)

See Sherman Act, 26 Stat. 209 (1890), 36 Stat. 1167 (1911); and 62 Stat. 909 (1948). This DCUS does enjoy original jurisdiction.

All guarantees of the U.S. Constitution were expressly extended into the District of Columbia in 1871 and all federal Territories in 1873. See 16 Stat. 419, 426, Sec. 34; 18 Stat. 325, 333, Sec. 1891, respectively. The Downes Doctrine is, therefore, *ultra vires*.

AS AN ALIAS FOR TRUST #62 IN PUERTO RICO,  
IRS ALSO VIOLATES THE SHERMAN ANTITRUST ACT

The verified record now before this honorable Court, and numerous other State and federal courts, makes it very clear that the IRS, as we know it today, is actually an alias for Trust #62. See 31 U.S.C. 1321(a)(62). This trust is presently domiciled in Puerto Rico, under color of the former Federal Alcohol Administration ("FAA").

In the present context the following paragraph is a crucial point of fact that remains unrebutted by IRS officials and the Congress:

Under the Reorganization Plan Number 3 of 1940 which appears at 5  
United States Code Service, Section 903, the Federal Alcohol  
Administration, and offices of members and Administrator thereof,  
were abolished and their functions directed to be administered  
under direction and supervision of the Secretary of the Treasury  
through the Bureau of Internal Revenue. We found this history in  
all of the older editions of 27 U.S.C.S., Section 201. It has  
been removed from current editions. Only two Bureaus of Internal  
Revenue have ever existed: one in the Philippines and another in  
Puerto Rico. Events that have transpired tell us that the  
Federal Alcohol Administration was absorbed by the Puerto Rico  
Trust #62.

[ "BATF/IRS -- Criminal Fraud," by William Cooper]  
[Veritas, Issue Number 6, September 1995]

27 The United States argues that the prohibited monopoly practices  
28 systematically inflicted upon the American People by the IRS do  
29 blatantly violate the Sherman Antitrust Act, calling for appropriate  
30 judicial review, immediate oversight and timely relief from the  
31 concomitant restraint of trade. See Attachment "A" *infra*.

32 As a threshold matter, IRS Agreements on Coordination of Tax  
33 Administration ("ACTA") were consummated without the competitive  
34 bidding that is a legal requirement for service contracts issued by  
35 the governments of the several States. IRS is a monopoly enterprise.

36 Those ACTA agreements are also demonstrably fraudulent.

# **IRS IS A CRIMINAL EXTORTION RACKET**

The United States hereby formally offers to prove that sufficient evidence has now been amassed to charge all IRS employees, but particularly its leadership and its accessories within the federal government, with multiple counts of the following federal offenses:

- (1) commission of a felony during the ten (10) years prior to and including June 1, 2002 A.D., by attempting and conspiring to obstruct, delay, and affect commerce and the movement of articles and commodities in commerce by means of extortion, specifically by obtaining property from the American People with Their consent induced by wrongful use of actual or threatened force, violence or fear, and under color of official right, all in violation of 18 U.S.C. 1951(a);
  - (2) commission of a felony during the ten (10) years prior to and including June 1, 2002 A.D., by directly and indirectly acquiring and/or maintaining, through a pattern of racketeering activity, an interest in, and/or control of, an enterprise which is engaged in, and the activities of which affect, interstate commerce, all in violation of 18 U.S.C. 1962(b);
  - (3) commission of a felony during the ten (10) years prior to and including June 1, 2002 A.D., by associating with an enterprise engaged in, and the activities of which affect, interstate commerce, and by directly and indirectly conducting and/or participating in the conduct of such enterprise's affairs through a pattern of racketeering activity, all in violation of 18 U.S.C. 1962(c); and,
  - (4) commission of a felony during the ten (10) years prior to and including June 1, 2002 A.D., by conspiring to engage in a pattern of racketeering activity, all in violation of 18 U.S.C. 1962(d).

See 18 U.S.C. 1961 *et seq.* for other pertinent RICO laws.

The federal RICO statutes also authorize treble (triple) damages to encourage private attorneys general to dissolve rackets:

Both statutes [RICO and Clayton Act] bring to bear the pressure of "**private attorneys general**" on a serious national problem for which public prosecutorial resources are deemed inadequate; the mechanism chosen to reach the objective in both the Clayton Act and RICO is **the carrot of treble damages**.

[Agency Holding Corp. v. Malley-Duff & Associates]  
[107 S.Ct. 2759, 483 U.S. 143, 151 (1987)]  
[bold emphasis added]

**INCORPORATION OF ATTACHED DOCUMENTS**

The United States hereby attaches a true and correct copy of the Press Release entitled "Let's Dismantle IRS: This Racket is Busted," by Paul Andrew Mitchell, Relator in the instant case, and incorporates same by reference to Attachment "A" *infra*, as if set forth fully here.

See Internet URL:

<http://www.supremelaw.org/press/rels/dismantle.irs.htm>

All URL's listed at the end of Attachment "A" are also incorporated.

## **REMEDIES REQUESTED**

All premises having been duly considered, Intervenor respectfully petitions this honorable District Court of the United States ("DCUS"), Central Judicial District of California, Southern Division, for:

(1) an ORDER liberally construing the RICO laws and permanently dissolving the RICO enterprise known as the Internal Revenue Service, pursuant to the original jurisdiction conferred upon this Court by the federal statute at 18 U.S.C. 1964(a), for its systematic, deliberate and premeditated historical violations of the Racketeer-Influenced and Corrupt Organizations Act ("RICO"), the Lanham Act first enacted in the year 1946 A.D., and also the Sherman Antitrust Act first enacted in the year 1890 A.D.; and,

(2) all other relief which this honorable Court deems just and proper, under the full range of relevant historical circumstances which have occasioned the instant application, including but not limited to court-ordered sanctions calculated to multiply seven-fold the actual damages caused by the IRS and its responsible principals (i.e., actual + 3X RICO + 3X Lanham Act).

*Respondeat superior.* Vicarious liability is actionable here.

1

**VERIFICATION**

2           I, Paul Andrew Mitchell, *Sui Juris*, hereby verify, under penalty  
3       of perjury, under the laws of the **United States of America**, without  
4       the "**United States**" (federal government), that the above statement of  
5       facts and laws is true and correct, according to the best of My  
6       current information, knowledge, and belief, so help me God, pursuant  
7       to 28 U.S.C. 1746(1). See Supremacy Clause (Constitution, Laws and  
8       Treaties are all the supreme Law of the Land throughout America).

9

10

Dated: June 1, 2002 A.D.

12

13

Signed: /s/ Paul Andrew Mitchell

15

Printed: Paul Andrew Mitchell, Private Attorney General

**PROOF OF SERVICE**

I, Paul Andrew Mitchell, *Sui Juris*, hereby certify, under penalty of perjury, under the laws of the **United States of America**, without the "United States" (federal government), that I am at least 18 years of age, a Citizen of ONE OF the **United States of America**, and that I personally served the following document(s):

**APPLICATION FOR ORDER DISSOLVING  
THE INTERNAL REVENUE SERVICE:**

18 U.S.C. 1964(a)

Lanham Act, Section 43(a); and,  
Sherman Act (1890):  
Lawful Jury Demanded

13  
14 by placing one true and correct copy of said document(s) in first  
15 class United States Mail, with postage prepaid and properly addressed  
16 to the following:

Clerk of Court (3x)

District Court of the United States  
Central Judicial District of California  
Southern Division  
411 West Fourth Street, Room 1-053  
Santa Ana 92701-4516  
CALIFORNIA, USA

Gavle Bybee

c/o Marcia J. Brewer  
300 Corporate Pointe, Suite 330  
Culver City 90230  
CALIFORNIA, USA

Carla Figaro

21213-B Hawthorne Blvd., #5361  
Torrance 90503  
CALIFORNIA, USA

Nora Moore

8400 Edinger Avenue, Apt. #Z-106  
Huntington Beach 92647  
CALIFORNIA, USA

Denise Ricca-White

4805 Glenhaven Drive  
Oceanside 92056  
CALIFORNIA, USA

1       **Andrew Erath**  
2       c/o Office of Regional Inspector  
3       Internal Revenue Service  
4       P.O. Box 6238  
5       Laguna Niguel 92607  
6       CALIFORNIA, USA  
7  
8       **Erik Newberry**  
9       c/o Office of Regional Inspector  
10      Internal Revenue Service  
11      P.O. Box 6238  
12      Laguna Niguel 92607  
13      CALIFORNIA, USA  
14  
15      **Matthew Finney**  
16      c/o Office of Regional Inspector  
17      Internal Revenue Service  
18      P.O. Box 6238  
19      Laguna Niguel 92607  
20      CALIFORNIA, USA  
21  
22      **Office of the Chief Counsel**  
23      Internal Revenue Service  
24      c/o 24000 Avila Road, #3314  
25      Laguna Niguel 92607  
26      CALIFORNIA, USA  
27  
28      **John S. Gordon**  
29      U.S. Department of Justice  
30      c/o 1200 United States Courthouse  
31      312 North Spring Street  
32      Los Angeles 90012-4797  
33      CALIFORNIA, USA  
34  
35      **Alicia Villarreal**  
36      U.S. Department of Justice  
37      c/o 1300 United States Courthouse  
38      312 North Spring Street  
39      Los Angeles 90012-4797  
40      CALIFORNIA, USA  
41  
42      **Brian Hershman**  
43      U.S. Department of Justice  
44      c/o 1300 United States Courthouse  
45      312 North Spring Street  
46      Los Angeles 90012-4797  
47      CALIFORNIA, USA  
48  
49      **Ronald L. Cheng**  
50      U.S. Department of Justice  
51      c/o 1300 United States Courthouse  
52      312 North Spring Street  
53      Los Angeles 90012-4797  
54      CALIFORNIA, USA

1       **Lawrence S. Middleton**  
2       U.S. Department of Justice  
3       c/o 1200 United States Courthouse  
4       312 North Spring Street  
5       Los Angeles 90012-4797  
6       CALIFORNIA, USA  
7

8       **Robert I. Lester**  
9       U.S. Department of Justice  
10      Federal Building, Room 7516  
11      300 North Los Angeles Street  
12      Los Angeles 90012-4797  
13      CALIFORNIA, USA  
14

15      **Leon W. Weidman**  
16      U.S. Department of Justice  
17      Federal Building, Room 7516  
18      300 North Los Angeles Street  
19      Los Angeles 90012-4797  
20      CALIFORNIA, USA  
21

22      **Dean D. Pregerson**  
23      United States District Court  
24      312 North Spring St., Courtroom 3  
25      Los Angeles 90012-4797  
26      CALIFORNIA, USA  
27

28      **John A. Chambers**  
29      Courtroom Clerk  
30      United States District Court  
31      312 North Spring St., Courtroom 3  
32      Los Angeles 90012-4797  
33      CALIFORNIA, USA  
34

35      **Beth Zaccaro**  
36      Court Reporter  
37      United States District Court  
38      312 North Spring St., Courtroom 3  
39      Los Angeles 90012-4797  
40      CALIFORNIA, USA  
41

42      **Gregory Nicolaysen, Esquire [sic]**  
43      dba Federal Criminal Defense Attorney  
44      16000 Ventura Boulevard, Suite 500  
45      Encino 91436  
46      CALIFORNIA, USA  
47

48      **Teresa Giordano**  
49      Quality Paralegal Services  
50      c/o 40960 California Oaks Road, Box 281  
51      Murrieta 92562  
52      CALIFORNIA, USA



**Attachment "A":**

## "Let's Dismantle IRS: This Racket is Busted"

<http://www.supremelaw.org/press/rels/dismantle.irs.htm>

by

Paul Andrew Mitchell  
Private Attorney General  
and Qualified Federal Witness

All Rights Reserved without Prejudice

Let's Dismantle IRS:  
This Racket is Busted

by

Paul Andrew Mitchell  
Private Attorney General

All Rights Reserved without Prejudice

It's time to dismantle the Internal Revenue Service. This organization has outlived its usefulness.

The hunt was on, several years ago, when activists like this writer confirmed that IRS was never created by any Act of Congress. It cannot be found in any of the laws which created the U.S. Department of the Treasury.

The U.S. Supreme Court quietly admitted as much, at footnote 23 in Chrysler Corp. v. Brown. In a nation governed by the rule of law, this omission is monumental.

The search for its real origins has taken this nation down many blind alleys, so convoluted and complicated are the statutes and regulations which govern its employees rarely, if ever.

The best explanation now favors its links to Prohibition, the ill-fated experiment in outlawing alcohol.

The Women's Temperance Movement, we believe, was secretly underwritten by the petroleum cartel, to perfect a monopoly over automotive fuels. Once that monopoly was in place, Prohibition was repealed, leaving alcohol high and dry as the preferred fuel for cars and trucks, and leaving a federal police force inside the several States, to extort money from the American People.

All evidence indicates that IRS is an alias for the Federal Alcohol Administration ("FAA"), which was declared unconstitutional inside the several States by the U.S. Supreme Court in 1935. The result of the high Court's decision in U.S. v. Constantine confined that FAA to federal territories, like Puerto Rico, where Congress is the "state" legislature.

Further confirmation can be found in a decision by the First Circuit Court of Appeals in Used Tire International, Inc. v. Manual Diaz-Saldana, which identified the latter as the real "Secretary of the Treasury." The Code of Federal Regulations for Title 27 also identifies this other "Secretary" as an office in San Juan, Puerto Rico.

This is ominous data. It serves to suggest that IRS has no authority whatsoever to mail envelopes from the "Department of the Treasury." Such obvious deception is prohibited by federal mail fraud statutes, and defined as a predicate to racketeering.

Moreover, the vagueness now proven to frequent the Internal Revenue Code forces a legal conclusion that the entire Code is necessarily void, read "no legal effect." The high Court's test for vagueness is obviously violated when men and women of common intelligence cannot agree on its correct meaning, its proper construction, or its territorial application.

Take, for instance, a statute at IRC section 7851. Here,

Congress has said that all the enforcement provisions in subtitle F shall take effect on the day after the date "this title" is enacted. These provisions include, for example, filing requirements, penalties for failing to file, and tax evasion.

Guess what?

Title 26 has never been enacted into positive law, rendering every single section in subtitle F a big pile of spaghetti, with no teeth whatsoever. Throughout most federal laws, the consistent legislative practice is to use the term "this title" to refer to a Title of the United States Code.

To make matters worse, conscientious courts (an endangered species) have ruled that taxes cannot be imposed without statutes assigning a specific liability to certain parties.

There are no statutes creating a specific liability for taxes imposed by subtitle A of the Internal Revenue Code. This is the set of statutes that impose the federal income tax.

Look at it this way: if Congress imposed a tax on chickens, would that necessarily mean that the chickens are liable for the tax?

Obviously not! Congress would also need to define the farmer, or the consumer, or the wholesaler, as the party liable for paying that tax. Chickens, where are your tax returns?

Without a liability statute, there can be no liability.

This now opens another, deeper layer in this can of rotting worms. If IRS is really using fear tactics to extort an unlawful debt, then it qualifies for careful scrutiny, and prosecution, under the Racketeer-Influenced and Corrupt Organizations Act aka "RICO".

How fitting, and how ironic, that IRS is legally domiciled in Puerto RICO.

When we get down to brass tacks, we find that Congress encourages private Citizens to investigate and bust rackets, mainly because it perceived a shortage of public prosecutors talented enough to enforce RICO statutes against organized crime syndicates.

This shortage is the real reason why the RICO statute at 18 U.S.C. 1964 awards triple damages to any party who prevails, using the civil remedies it provides. And, happily, State courts like the Superior Court of California also enjoy original jurisdiction to litigate and issue these remedies.

All of this would approach comedy in the extreme, were it not also the case that IRS launders huge sums of money, every day, into foreign banks chiefly owned by the families that founded the Federal Reserve system.

Did you think the Federal Reserve was federal government? Guess again!

One of the biggest shocks of the last century was an admission by President Reagan's Grace Commission, that none of the income taxes collected by IRS goes to pay for any federal government services.

Those taxes are paying interest to these foreign banks, and benefit payments to recipients of entitlement programs, like federal pension funds.

So, the next time your neighbors accuse you of being unpatriotic for challenging the IRS, we recommend that you demand from them *proof* that IRS is really funding any federal government services, like air traffic control, the Pentagon, the Congress, the Courts, or the White House.

Don't hold your breath.

Honestly, when all the facts are put on a level table top, there is not a single reason why America should put up with this massive fiscal fraud for one more day.

It's now time to dismantle the Internal Revenue Service.

Keeping all those laundered funds inside this country will result in economic prosperity without precedent in our nation's history.

Let's bury IRS beneath the Titanic, where it can rust in peace forever along with the rest of the planet's jellyfish.

America deserves to be a living, thriving Republic, not another victim of Plank Number Two in the Communist Manifesto.

#### About the Author:

Paul Andrew Mitchell is a Private Attorney General and Webmaster of the Supreme Law Library on the Internet:

<http://www.supremelaw.org>

#### See also:

"U.S. Secretary of the Treasury Falls Silent in Face of SUBPOENA for Tax Liability Statutes"

"31 Questions and Answers about the IRS"

"What Is the Federal Income Tax?"

"Electronic Censors Found at U.C. Berkeley's Law School"

"Private Attorney General Backs UCB's Graduate Instructors"

"Paul Mitchell Blasts Clinton, Rubin for Racketeering"

"Paul Mitchell Applauds House Vote to Kill IRC"

"Paul Mitchell Urges Nation to Boycott IRS"

"The Kick-Back Racket: PMRS"

"Congresswoman Suspected of Income Tax Evasion"

"Our Proposal to Save Social Security"

"Charitable Contributions by the Federal Reserve"

"Legal Notice in re Withholding Exemption Certificates"

"A Cogent Summary of Federal Jurisdictions"

"BATF/IRS -- Criminal Fraud"

"Income Taxes and Government Fraud"

"A Monologue on Federal Fiscal Fraud"

"Miscellaneous Letters of Correspondence"

# # #

Paul Andrew Mitchell, B.A., M.S.  
Private Attorney General  
c/o General Delivery  
Sunset Beach 90742  
CALIFORNIA, USA

PRESIDENT'S ADVISORY  
PANEL  
ON FEDERAL TAX REFORM

2005 MAR 30 A 8:48

**PAST DUE**

*In Propria Persona*

All Rights Reserved  
without Prejudice

UNITED STATES COURT OF APPEALS

NINTH CIRCUIT

Lynne Meredith et al., ) No. 02-55021  
Plaintiffs/Appellees, )  
v. )  
Andrew Erath et al., )  
Defendants/Appellants. )  
-----)  
United States ) **NOTICE OF MOTION AND**  
*ex relatione* ) **MOTION FOR PRELIMINARY INJUNCTION:**  
Paul Andrew Mitchell, ) Article I, Section 8, Clause 1;  
Movant. ) Article I, Section 9, Clause 7;  
Internal Revenue Code § 7809;  
31 U.S.C. 301(f)(2); and  
FRAP Rules 8(a)(1)(C) and 8(a)(2)  
in pari materia with  
Internal Revenue Service, ) FRCP Rules 64 and 65.  
Respondent. )

COMES NOW the **United States** (hereinafter "Movant") ex relatione Paul Andrew Mitchell, Citizen of ONE OF the **United States of America** and Private Attorney General (hereinafter "Relator") to move this honorable Court, pursuant to: Rules 8(a)(1)(C) and 8(a)(2) of Federal Rules of Appellate Procedure ("FRAP"), section ("§") 7809 of the

1 Internal Revenue Code, and Article I, Section 8, Clause 1, and Article  
2 1, Section 9, Clause 7, in the Constitution for the United States of  
3 America, as lawfully amended (hereinafter "U.S. Constitution"), for a  
4 preliminary ORDER freezing all of Respondent's assets and enjoining  
5 Respondent from depositing any tax collections into any account(s)  
6 other than the Treasury of the United States.

7 Mounting evidence recently confirmed by Movant appears to  
8 indicate that Respondent Internal Revenue Service ("IRS") has been  
9 systematically violating section 7809 of the Internal Revenue Code  
10 ("IRC"). Said section clearly mandates that:

11 ... collections of whatever nature received or collected by  
12 authority of any internal revenue law, **shall be paid daily into**  
13 **the Treasury of the United States** under instructions of the  
14 Secretary as internal revenue collections, by the officer or  
15 employee receiving or collecting the same, without any abatement  
16 or deduction on account of salary, compensation, fees, costs,  
17 charges, expenses, or claims of any description.

18  
19 [IRC § 7809(a), **bold** emphasis added]

20 Statements verified under 28 U.S.C. 1746(1), and filed in federal  
21 district court in San Jose, California, Clerk's Docket  
22 #CR-00-20227-JF, suggest that monies collected by IRS personnel have  
23 been deposited in a "quad zero" account and left there for at least  
24 one (1) full year, without proper accounting. See, for example,  
25 Treasury Order 91 (Rev. 1), May 12, 1986.

26 Monies collected by IRS have also been used in recent years to  
27 make cash awards, under color of the Internal Revenue Manual and of a  
28 now defunct federal program formerly called the Performance Management  
29 and Recognition System ("PMRS").

30 PMRS abuses reportedly became so severe, Congress repealed this  
31 incentive system in 1993, but serious abuses continued.

1           A FOIA request for records of all PMRS awards was met with a  
2 written admission -- by an IRS Tax Law Specialist -- that few records  
3 existed because the awards were paid in cash! See 5 U.S.C. 552; and  
4 the Anti-Kickback Act of 1986, 41 U.S.C. 51 et seq. This admission  
5 also raised the spectre of widespread federal income tax evasion (a  
6 felony) by every recipient of these cash awards, e.g. \$25,000.00 per  
7 indictment of each "TC-148" aka "illegal tax protester" [sic].

8           Other mounting evidence, recently confirmed in the U.S. Supreme  
9 Court case of Chrysler Corp. v. Brown, 441 U.S. 281 (1979), at  
10 footnote 23, makes it clear that IRS was never created by any organic  
11 Act of Congress. See 31 U.S.C. *in toto*, for further confirmation.  
12 After tracing IRS genealogy all the way back to 1862 A.D., the high  
13 Court still failed to find any organic Act for the IRS. Compare the  
14 statute at 1 Stat. 65.

15           In 1994, the General Accounting Office ("GAO") reported it was  
16 unable to audit \$4.3 billion of the \$6.7 billion -- a staggering  
17 sixty-four percent -- of its operating funds that IRS reported  
18 spending in FY 1992, **because IRS could not account for all the money.**  
19 See "Financial Management: IRS Does Not Adequately Manage Its  
20 Operating Funds," Report to the Commissioner, Internal Revenue  
21 Service, February 1994 (Chapter Report, 02/09/94, Report Number  
22 GAO/AIMD-94-33).

23           The situation has not improved since then. In March of 1999, GAO  
24 found that pervasive weaknesses in the design and operation of  
25 Respondent's financial management systems, accounting procedures,  
26 documentation, recordkeeping, and internal controls prevented GAO from  
27 rendering an unqualified opinion on five of IRS' six principal

1 financial statements. Put simply, they flunked. See "Internal  
2 Revenue Service: Results of Fiscal Year 1998 Financial Statement  
3 Audit," March 1, 1999 (Report Number T-AIMD-99-103).

4 The worst shock of the last century was a startling admission in  
5 the final report of the President's Private Sector Survey on Cost  
6 Control, commonly known as the Grace Commission (named after Chairman  
7 J. Peter Grace). **The Grace Commission concluded that none of the**  
8 **federal income taxes collected by the IRS were being used to pay for**  
9 **any government services!**

10 Instead, those collections are, evidently, being used to service  
11 the massive federal debt owed to banks, many of which are foreign  
12 banks, and to make income transfer payments to beneficiaries of  
13 entitlement programs, e.g. federal pension plans. See "War on Waste:  
14 President's Private Sector Survey on Cost Control," New York,  
15 MacMillan Publishing Company, January 12, 1984 (ISBN 0-02-074660-1).

16 **It is extremely doubtful, if not impossible, that so much money**  
17 **would show up missing, if IRS were not also violating IRC § 7809,**  
18 **daily and as a matter of institutional policy. Can it be trillions?**

19 Further proof of IRC § 7809 violations can be found on the  
20 cancelled checks which untold numbers of taxpayers have submitted to  
21 pay federal income taxes since 1913 A.D., along with their completed  
22 Form 1040's -- the **U.S. Individual** Income Tax Return (not **Individual**  
23 **Income** [sic]).

24 All too frequently in the recent past, IRS endorsed these checks  
25 payable to "Any F.R.B ... in Payment of U.S. Oblig.", and not to the  
26 Treasury of the United States. See 27 CFR 70.11: definitions of  
27 "Commercial bank" and "Treasury Account"; also Lewis v. United

States, 680 F.2d 1239 (9<sup>th</sup> Cir. 1982), holding that Federal Reserve Banks are privately owned entities and not federal agencies; 27 CFR 250.11: "Revenue Agent", "Secretary" etc. defined; §§ 3(c), 6, 10 of the Bretton Woods Agreements Act, 59 Stat. 512, P.L. 171, July 31, 1945, in "A Decade of American Foreign Policy: Basic Documents, 1941-49," prepared at the request of the Senate Committee on Foreign Relations by the Staff of the Committee and the Department of State, Washington, D.C., U.S. GPO (1950); 22 U.S.C. 286a; 31 U.S.C. 5341: national strategy.

Thus, Movant argues that all IRS collections without exception should be paid daily into the Treasury of the United States, as required by Law.

If this is not the case, no matter how large or small the sums of money may be, this Court has the power, authority, and legal obligation to issue a preliminary ORDER, with all deliberate speed, enjoining Respondent IRS from depositing collections of whatever nature into any account(s) other than the Treasury of the United States. See IRC §§ 7809(a), (b), and (d) *in pari materia* with FRCP Rule 65.

For the purpose of securing satisfaction of the judgment ultimately to be entered in this action, Movant hereby also seeks **an immediate ORDER freezing all assets of Respondent IRS, in pari materia with FRCP Rule 64 and executed by other appropriate ORDER(s).**

**FORMAL OFFER OF PROOF**

Movant hereby formally offers to prove that Respondent IRS is an alias for Trust #62, domiciled in Puerto Rico under color of the Federal Alcohol Administration. See 31 U.S.C. 1321(a)(62).

Movant also offers to prove that the links between the Internal Revenue Code, the Code of Federal Regulations ("CFR") for Title 26, and Title 27 of the United States Code ("U.S.C."), have their historical roots in Prohibition (the Volstead Act), which permitted the petroleum cartel to establish a monopoly in automotive fuels, and permitted the United States to field a federal police force inside the several States of the Union.

8               Once the monopoly was in place, Prohibition was lifted, leaving  
9       alcohol high and dry as the preferred fuel for automobiles, and  
10      leaving the federal police force in place -- to extort money from the  
11      American People. See, e.g. Pogue Carburetor patent (an efficient fuel  
12      vaporizer utilized in Allied tanks fighting field marshal Erwin Rommel  
13      in the North Africa campaign during World War II).

**STANDING OBJECTION IN RE POWERS OF ATTORNEY**

16 Movant formally objects, in advance, to any and all attempts by  
17 duly appointed officers of the U.S. Department of Justice to appear on  
18 behalf of IRS, to answer the instant MOTION. See 5 U.S.C. 551(1)(C).

19 Pursuant to 31 U.S.C. 301(f)(2), only the duly appointed IRS  
20 Chief Counsel has been delegated lawful power(s) of attorney to appear  
21 on behalf of Respondent IRS. Title 31, U.S.C., has been enacted into  
22 positive law; Title 26, U.S.C. has not, however.

Similarly, the Solicitor General also appears to lack any lawful power(s) of attorney to appear on behalf of Respondent IRS.

1

**REMEDY REQUESTED**

2       All premises having been duly considered, and in light of the  
3       demonstrable national urgency which evidently exists for the above  
4       stated reasons, Movant respectfully petitions this honorable United  
5       States Court of Appeals for the following preliminary relief:

- 6             (1) an ORDER freezing all assets of Respondent IRS, with all  
7             deliberate speed, for the purpose of securing satisfaction  
8             of the final judgment ultimately to be entered in this  
9             matter, pursuant to FRAP Rules 8(a)(1)(C) and 8(a)(2), and  
10             *in pari materia* with FRCP Rule 64;
- 11             (2) a preliminary ORDER enjoining Respondent IRS, with all  
12             deliberate speed, from depositing monies, received or  
13             collected by authority of any internal revenue law, into  
14             any account other than the Treasury of the United States,  
15             *in pari materia* with FRCP Rule 65; and,  
16             all other relief which this Court deems just and proper, under the  
17             apparently urgent circumstances which have occasioned this MOTION.

1

**VERIFICATION**

2 I, Paul Andrew Mitchell, *Sui Juris*, hereby verify, under penalty of  
3 perjury, under the laws of the **United States of America**, without the  
4 "United States" (federal government), that the above statement of  
5 facts and laws is true and correct, according to the best of My  
6 current information, knowledge, and belief, so help me God, pursuant  
7 to 28 U.S.C. 1746(1). See Supremacy Clause (*Constitution, Laws and*  
8 *Treaties are all the supreme Law of the Land*).

9

10

Dated: April 25, 2002 A.D.

11

12

Signed: /s/ Paul Andrew Mitchell

13

14

Printed: Paul Andrew Mitchell, Private Attorney General

15

16

**PROOF OF SERVICE**

I, Paul Andrew Mitchell, *Sui Juris*, hereby certify, under penalty of perjury, under the laws of the **United States of America**, without the "United States" (federal government), that I am at least 18 years of age, a Citizen of ONE OF the **United States of America**, and that I personally served the following document(s):

**NOTICE OF MOTION AND  
MOTION FOR PRELIMINARY INJUNCTION:**

Article I, Section 8, Clause 1;  
Article I, Section 9, Clause 7;  
Internal Revenue Code § 7809;  
31 U.S.C. 301(f)(2); and  
FRAP Rules 8(a)(1)(C) and 8(a)(2)  
*in pari materia* with  
FRCP Rules 64 and 65.

18 by placing one true and correct copy of said document(s) in first  
19 class United States Mail, with postage prepaid and properly addressed  
20 to the following:

**Clerk of Court** (5x)  
Attention: Cathy Catterson  
Ninth Circuit Court of Appeals  
P.O. Box 193939  
San Francisco 94119-3939  
CALIFORNIA, USA

**Lynne Meredith**  
Booking #24001112  
Federal Detention Center  
17645 Industrial Farm Road  
Bakersfield 93308  
CALIFORNIA. USA

**Gayle Bybee**  
c/o Marcia J. Brewer  
300 Corporate Pointe, Suite 330  
Culver City 90230  
CALIFORNIA USA

**Jenifer Meredith**  
c/o P.O. Box 370  
Sunset Beach 90742  
CALIFORNIA, USA

1       **Carla Figaro**  
2       21213-B Hawthorne Blvd., #5361  
3       Torrance 90503  
4       CALIFORNIA, USA  
5

6       **Andrew Erath**  
7       c/o Office of Regional Inspector  
8       Internal Revenue Service  
9       P.O. Box 6238  
10      Laguna Niguel 92607  
11      CALIFORNIA, USA  
12

13      **Richard Stack and Darwin Thomas**  
14      300 North Los Angeles Street  
15      Room 7211, Federal Building  
16      Los Angeles 90012  
17      CALIFORNIA, USA  
18

19      **Gretchen W. Wolfinger**  
20      U.S. Department of Justice  
21      Appellate Section  
22      P.O. Box 502  
23      Washington 20044  
24      DISTRICT OF COLUMBIA, USA  
25

26      **Patricia Mazon**  
27      Internal Revenue Service  
28      501 West Ocean Boulevard  
29      Long Beach  
30      CALIFORNIA, USA  
31

32      Courtesy Copies to:

33      **Office of the Solicitor General**  
34      950 Pennsylvania Avenue, N.W., Room 5614  
35      Washington 20530-0001  
36      DISTRICT OF COLUMBIA, USA  
37

38      **Judge Alex Kozinski** (supervising)  
39      Ninth Circuit Court of Appeals  
40      P.O. Box 91510  
41      Pasadena 91109-1510  
42      CALIFORNIA, USA  
43

44      [See USPS Publication #221 for addressing instructions.]  
45

46      Dated: April 25, 2002 A.D.  
47

48      Signed: /s/ Paul Andrew Mitchell  
49

50      Printed: Paul Andrew Mitchell, Private Attorney General  
51

52      **Rebecca Sparkman**  
53      Internal Revenue Service  
54      24000 Avila Road, #3314  
55      Laguna Niguel 92607  
56      CALIFORNIA, USA  
57

58      **Victor Song**  
59      Internal Revenue Service  
60      24000 Avila Road, #3314  
61      Laguna Niguel 92607  
62      CALIFORNIA, USA  
63

64      **Office of the Chief Counsel**  
65      Internal Revenue Service  
66      c/o 24000 Avila Road  
67      Laguna Niguel 92607  
68      CALIFORNIA, USA  
69

**31 Questions and Answers PRESENTED BY THE ADVISORY  
the Internal Revenue Service PANEL ON FEDERAL TAX REFORM**

Revision 3.2 | 2005 MAR 30 A 8:118

certified by

**Paul Andrew Mitchell, B.A., M.S.**  
Citizen of California, Federal Witness,  
Private Attorney General, Author and  
Webmaster of the Supreme Law Library

Internet URL of home page:

<http://www.supremelaw.org>

Internet URL of this file:

<http://www.supremelaw.org/sls/31answers.htm>

Common Law Copyright  
All Rights Reserved without Prejudice

1. Is the Internal Revenue Service ("IRS") an organization within the U.S. Department of the Treasury?

Answer: No. The IRS is not an organization within the United States Department of the Treasury. The U.S. Department of the Treasury was organized by statutes now codified in Title 31 of the United States Code, abbreviated "31 U.S.C." The only mention of the IRS anywhere in 31 U.S.C. §§ 301-310 is an authorization for the President to appoint an Assistant General Counsel in the U.S. Department of the Treasury to be the Chief Counsel for the IRS. See 31 U.S.C. 301(f)(2).

At footnote 23 in the case of Chrysler Corp. v. Brown, 441 U.S. 281 (1979), the U.S. Supreme Court admitted that no organic Act for the IRS could be found, after they searched for such an Act all the way back to the Civil War, which ended in the year 1865 A.D. The Guarantee Clause in the U.S. Constitution guarantees the Rule of Law to all Americans (we are to be governed by Law and not by arbitrary bureaucrats). See Article IV, Section 4. Since there was no organic Act creating it, IRS is not a lawful organization.

2. If not an organization within the U.S. Department of the Treasury, then what exactly is the IRS?

Answer: The IRS appears to be a collection agency working for foreign banks and operating out of Puerto Rico under color of the Federal Alcohol Administration ("FAA"). But the FAA was promptly declared unconstitutional inside the 50 States by the U.S. Supreme Court in the case of U.S. v. Constantine, 296 U.S. 287 (1935), because Prohibition had already been repealed.

1 In 1998, the United States Court of Appeals for the First Circuit  
2 identified a second "Secretary of the Treasury" as a man by the  
3 name of Manual Diaz-Saldaña. See the definitions of "Secretary"  
4 and "Secretary or his delegate" at 27 CFR 26.11 (formerly 27 CFR  
5 250.11), and the published decision in Used Tire International,  
6 Inc. v. Manual Diaz-Saldaña, court docket number 97-2348,  
7 September 11, 1998. Both definitions mention Puerto Rico.  
8

9 When all the evidence is examined objectively, IRS appears to be  
10 a money laundry, extortion racket, and conspiracy to engage in a  
11 pattern of racketeering activity, in violation of 18 U.S.C. 1951  
12 and 1961 et seq. ("RICO"). Think of Puerto RICO (Racketeer  
13 Influenced and Corrupt Organizations Act); in other words, it is  
14 an organized crime syndicate operating under false and fraudulent  
15 pretenses.  
16  
17

- 18 3. By what legal authority, if any, has the IRS established offices  
19 inside the 50 States of the Union?  
20

21 Answer: After much diligent research, several investigators have  
22 concluded that there is no known Act of Congress, nor any  
23 Executive Order, giving IRS lawful jurisdiction to operate within  
24 any of the 50 States of the Union.  
25

26 Their presence within the 50 States appears to stem from certain  
27 Agreements on Coordination of Tax Administration ("ACTA"), which  
28 officials in those States have consummated with the Commissioner  
29 of Internal Revenue. A template for ACTA agreements can be found  
30 at the IRS Internet website and in the Supreme Law Library on the  
31 Internet.  
32

33 However, those ACTA agreements are demonstrably fraudulent, for  
34 example, by expressly defining "IRS" as a lawful bureau within  
35 the U.S. Department of the Treasury. (See Answer to Question 1  
36 above.) Moreover, those ACTA agreements also appear to violate  
37 State laws requiring competitive bidding before such a service  
38 contract can be awarded by a State government to any  
39 subcontractor. There is no evidence to indicate that ACTA  
40 agreements were reached after competitive bidding processes; on  
41 the contrary, the IRS is adamant about maintaining a monopoly  
42 syndicate.  
43  
44

- 45 4. Can IRS legally show "Department of the Treasury" on their  
46 outgoing mail?  
47

48 Answer: No. It is obvious that such deceptive nomenclature is  
49 intended to convey the false impression that IRS is a lawful  
50 bureau or department within the U.S. Department of the Treasury.  
51 Federal laws prohibit the use of United States Mail for  
52 fraudulent purposes. Every piece of U.S. Mail sent from IRS with  
53 "Department of the Treasury" in the return address, is one count  
54 of mail fraud.

1       5. Does the U.S. Department of Justice have power of attorney to  
2 represent the IRS in federal court?

3  
4       Answer: No. Although the U.S. Department of Justice ("DOJ")  
5 does have power of attorney to represent federal agencies before  
6 federal courts, the IRS is not an "agency" as that term is  
7 legally defined in the Freedom of Information Act or in the  
8 Administrative Procedures Act. The governments of all federal  
9 Territories are expressly excluded from the definition of federal  
10 "agency" by Act of Congress. See 5 U.S.C. 551(1)(C).

11  
12      Since IRS is domiciled in Puerto Rico (RICO?), it is thereby  
13 excluded from the definition of federal agencies which can be  
14 represented by the DOJ. The IRS Chief Counsel, appointed by the  
15 President under authority of 31 U.S.C. 301(f)(2), can appear, or  
16 appoint a delegate to appear in federal court on behalf of IRS  
17 and IRS employees. Again, see the Answer to Question 1 above.  
18 As far as powers of attorney are concerned, the chain of command  
19 begins with Congress, flows to the President, and then to the IRS  
20 Chief Counsel, and NOT to the U.S. Department of Justice.

21  
22       6. Were the so-called 14<sup>th</sup> and 16<sup>th</sup> amendments properly ratified?

23  
24       Answer: No. Neither was properly ratified. In the case of  
25 People v. Boxer (December 1992), docket number #S-030016, U.S.  
26 Senator Barbara Boxer fell totally silent in the face of an  
27 Application to the California Supreme Court by the People of  
28 California, for an ORDER compelling Senator Boxer to witness the  
29 material evidence against the so-called 16<sup>th</sup> amendment.

30  
31       That so-called "amendment" allegedly authorized federal income  
32 taxation, even though it contains no provision expressly  
33 repealing two Constitutional Clauses mandating that direct taxes  
34 must be apportioned. The Ninth Circuit Court of Appeals and the  
35 U.S. Supreme Court have both ruled that repeals by implication  
36 are not favored. See Crawford Fitting Co. et al. v. J.T.  
37 Gibbons, Inc., 482 U.S. 437, 442 (1987).

38  
39       The material evidence in question was summarized in AFFIDAVIT's  
40 that were properly executed and filed in that case. Boxer fell  
41 totally silent, thus rendering those affidavits the "truth of the  
42 case." The so-called 16<sup>th</sup> amendment has now been correctly  
43 identified as a major fraud upon the American People and the  
44 United States. Major fraud against the United States is a  
45 serious federal offense. See 18 U.S.C. 1031.

46  
47       Similarly, the so-called 14<sup>th</sup> amendment was never properly  
48 ratified either. In the case of Dyett v. Turner, 439 P.2d 266,  
49 270 (1968), the Utah Supreme Court recited numerous historical  
50 facts proving, beyond any shadow of a doubt, that the so-called  
51 14<sup>th</sup> amendment was likewise a major fraud upon the American  
52 People.

1 Those facts, in many cases, were Acts of the several State  
2 Legislatures voting for or against that proposal to amend the  
3 U.S. Constitution. The Supreme Law Library has a collection of  
4 references detailing this major fraud.

5 The U.S. Constitution requires that constitutional amendments be  
6 ratified by three-fourths of the several States. As such, their  
7 Acts are governed by the Full Faith and Credit Clause in the U.S.  
8 Constitution. See Article IV, Section 1.

9  
10 Judging by the sheer amount of litigation its various sections  
11 have generated, particularly Section 1, the so-called 14<sup>th</sup>  
12 amendment is one of the worst pieces of legislation ever written  
13 in American history. The phrase "subject to the jurisdiction of  
14 the United States" is properly understood to mean "subject to the  
15 municipal jurisdiction of Congress." (See Answer to Question 19  
16 below.)  
17

18 For this one reason alone, the Congressional Resolution proposing  
19 the so-called 14<sup>th</sup> amendment is provably vague and therefore  
20 unconstitutional. See 14 Stat. 358-359, Joint Resolution No. 48,  
21 June 16, 1866.  
22  
23

- 24  
25 7. Where are the statutes that create a *specific* liability for  
26 federal income taxes?

27  
28 Answer: Section 1 of the Internal Revenue Code ("IRC") contains  
29 no provisions creating a specific liability for taxes imposed by  
30 subtitle A. Aside from the statutes which apply only to federal  
31 government employees, pursuant to the Public Salary Tax Act, the  
32 only other statutes that create a specific liability for federal  
33 income taxes are those itemized in the definition of "Withholding  
34 agent" at IRC section 7701(a)(16). For example, see IRC section  
35 1461. A separate liability statute for "employment" taxes  
36 imposed by subtitle C is found at IRC section 3403.  
37

38 After a worker authorizes a payroll officer to withhold taxes,  
39 typically by completing Form W-4, the payroll officer then  
40 becomes a withholding agent who is legally and specifically  
41 liable for payment of all taxes withheld from that worker's  
42 paycheck. Until such time as those taxes are paid in full into  
43 the Treasury of the United States, the withholding agent is the  
44 only party who is legally liable for those taxes, not the worker.  
45 See IRC section 7809 ("Treasury of the United States").  
46

47 If the worker opts instead to complete a Withholding Exemption  
48 Certificate, consistent with IRC section 3402(n), the payroll  
49 officer is not thereby authorized to withhold any federal income  
50 taxes. In this latter situation, there is absolutely no  
51 liability for the worker or for the payroll officer; in other  
52 words, there is no liability PERIOD, specifically because there  
53 is no withholding agent.  
54

- 1       8. Can a federal regulation create a specific liability, when no  
2       specific liability is created by the corresponding statute?

4                  Answer: No. The U.S. Constitution vests all legislative power  
5       in the Congress of the United States. See Article I, Section 1.  
6       The Executive Branch of the federal government has no legislative  
7       power whatsoever. This means that agencies of the Executive  
8       Branch, and also the federal Courts in the Judicial Branch, are  
9       prohibited from making law.

10                 If an Act of Congress fails to create a specific liability for  
11      any tax imposed by that Act, then there is no liability for that  
12      tax. Executive agencies have no authority to cure any such  
13      omission by using regulations to create a liability.

14                 "**[A]n administrative agency may not create a criminal offense or  
15                 any liability not sanctioned by the lawmaking authority,  
16                 especially a liability for a tax** or inspection fee." See  
17                 Commissioner of Internal Revenue v. Acker, 361 U.S. 87, 4 L.Ed.2d  
18                 127, 80 S.Ct. 144 (1959), and Independent Petroleum Corp. v. Fly,  
19                 141 F.2d 189 (5<sup>th</sup> Cir. 1944) as cited at 2 Am Jur 2d, p. 129,  
20                 footnote 2 (1962 edition) [**bold** emphasis added]. However, this  
21                 cite from American Jurisprudence has been removed from the 1994  
22                 edition of that legal encyclopedia.

- 23       9. The federal regulations create an income tax liability for what  
24       specific classes of people?

25                 Answer: The regulations at 26 CFR 1.1-1 attempted to create a  
26       specific liability for all "citizens of the United States" and  
27       all "residents of the United States". However, those regulations  
28       correspond to IRC section 1, which does not create a specific  
29       liability for taxes imposed by subtitle A.

30                 Therefore, these regulations are an overly broad extension of the  
31       underlying statutory authority; as such, they are  
32       unconstitutional, null and void *ab initio* (from the beginning, in  
33       Latin). The Acker case cited above held that federal regulations  
34       can not exceed the underlying statutory authority. (See Answer  
35       to Question 8 above.)

- 36       44. How many classes of citizens are there, and how did this number  
37       come to be?

38                 Answer: There are two (2) classes of citizens: State Citizens  
39       and federal citizens. The first class originates in the  
40       Qualifications Clauses in the U.S. Constitution, where the term  
41       "Citizen of the United States" is used. (See 1:2:2, 1:3:3 and  
42       2:1:5.) Notice the UPPER-CASE "C" in "Citizen".

43                 The pertinent court cases have defined the term "United States"  
44       in these Clauses to mean "States United", and the full term means

1 "Citizen of ONE OF the States United". See People v. De La  
2 Guerra, 40 Cal. 311, 337 (1870); Judge Pablo De La Guerra signed  
3 the California Constitution of 1849, when California first joined  
4 the Union. Similar terms are found in the Diversity Clause at  
5 Article III, Section 2, Clause 1, and in the Privileges and  
6 Immunities Clause at Article IV, Section 2, Clause 1. Prior to  
7 the Civil War, there was only one (1) class of Citizens under  
8 American Law. See the holding in Pannill v. Roanoke, 252 F. 910,  
9 914-915 (1918), for definitive authority on this key point.

10  
11 The second class originates in the 1866 Civil Rights Act, where  
12 the term "citizen of the United States" is used. This Act was  
13 later codified at 42 U.S.C. 1983. Notice the lower-case "c" in  
14 "citizen". The pertinent court cases have held that Congress  
15 thereby created a municipal franchise primarily for members of  
16 the Negro race, who were freed by President Lincoln's  
17 Emancipation Proclamation (a war measure), and later by the  
18 Thirteenth Amendment banning slavery and involuntary servitude.  
19 Compelling payment of a "tax" for which there is no liability  
20 statute is tantamount to involuntary servitude, and extortion.  
21

22 Instead of using the unique term "federal citizen", as found in  
23 Black's Law Dictionary, Sixth Edition, it is now clear that the  
24 Radical Republicans who sponsored the 1866 Civil Rights Act were  
25 attempting to confuse these two classes of citizens. Then, they  
26 attempted to elevate this second class to constitutional status,  
27 by proposing a 14<sup>th</sup> amendment to the U.S. Constitution. As we now  
28 know, that proposal was never ratified. (See Answer to Question  
29 6 above.)

30 Numerous court cases have struggled to clarify the important  
31 differences between the two classes. One of the most definitive,  
32 and dispositive cases, is Pannill v. Roanoke, 252 F. 910, 914-915  
33 (1918), which clearly held that federal citizens had no standing  
34 to sue under the Diversity Clause, because they were not even  
35 contemplated when Article III in the U.S. Constitution was first  
36 being drafted, circa 1787 A.D.  
37

38 Another is Ex parte Knowles, 5 Cal. 300 (1855) in which the  
39 California Supreme Court ruled that there was no such thing as a  
40 "citizen of the United States" (as of the year 1855 A.D.). Only  
41 federal citizens have standing to invoke 42 U.S.C. 1983; whereas  
42 State Citizens do not. See Wadleigh v. Newhall, 136 F. 941 (C.C.  
43 Cal. 1905).  
44

45 Many more cases can be cited to confirm the existence of two  
46 classes of citizens under American Law. These cases are  
47 thoroughly documented in the book entitled "The Federal Zone:  
48 Cracking the Code of Internal Revenue" by Paul Andrew Mitchell,  
49 B.A., M.S., now in its eleventh edition. See also the pleadings  
50 in the case of USA v. Gilbertson, also in the Supreme Law  
51 Library.  
52

53

1       11. Can one be a State Citizen, without also being a federal citizen?

2  
3       Answer: Yes. The 1866 Civil Rights Act was municipal law,  
4       confined to the District of Columbia and other limited areas  
5       where Congress is the "state" government with exclusive  
6       legislative jurisdiction there. These areas are now identified  
7       as "the federal zone." (Think of it as the blue field on the  
8       American flag; the stars on the flag are the 50 States.) As  
9       such, the 1866 Civil Rights Act had no effect whatsoever upon the  
10      lawful status of State Citizens, then or now.

11  
12      Several courts have already recognized our Right to be State  
13      Citizens without also becoming federal citizens. For excellent  
14      examples, see State v. Fowler, 41 La. Ann. 380, 6 S. 602 (1889)  
15      and Gardina v. Board of Registrars, 160 Ala. 155, 48 S. 788, 791  
16      (1909). The Maine Supreme Court also clarified the issue by  
17      explaining our "Right of Election" or "freedom of choice,"  
18      namely, our freedom to choose between two different forms of  
19      government. See 44 Maine 518 (1859), Hathaway, J. dissenting.

20  
21      Since the Guarantee Clause does not require the federal  
22      government to guarantee a Republican Form of Government to the  
23      federal zone, Congress is free to create a different form of  
24      government there, and so it has. In his dissenting opinion in  
25      Downes v. Bidwell, 182 U.S. 244 at 380 (1901), Supreme Court  
26      Justice Harlan called it an absolute legislative democracy.

27  
28      But, State Citizens are under no legal obligation to join or  
29      pledge any allegiance to that legislative democracy; their  
30      allegiance is to one or more of the several States of the Union  
31      (i.e. the white stars on the American flag, not the blue field).

32  
33      12. Who was Frank Brushaber, and why was his U.S. Supreme Court case  
34      so important?

35  
36      Answer: Frank Brushaber was the Plaintiff in the case of  
37      Brushaber v. Union Pacific Railroad Company, 240 U.S. 1 (1916),  
38      the first U.S. Supreme Court case to consider the so-called 16<sup>th</sup>  
39      amendment. Brushaber identified himself as a Citizen of New York  
40      State and a resident of the Borough of Brooklyn, in the city of  
41      New York, and nobody challenged that claim.

42  
43      The Union Pacific Railroad Company was a federal corporation  
44      created by Act of Congress to build a railroad through Utah (from  
45      the Union to the Pacific), at a time when Utah was a federal  
46      Territory, i.e. inside the federal zone.

47  
48      Brushaber's attorney committed an error by arguing that the  
49      company had been chartered by the State of Utah, but Utah was not  
50      a State of the Union when Congress first created that  
51      corporation.

1 Brushaber had purchased stock issued by the company. He then  
2 sued the company to recover taxes that Congress had imposed upon  
3 the dividends paid to its stockholders. The U.S. Supreme Court  
4 ruled against Frank Brushaber, and upheld the tax as a lawful  
5 excise, or *indirect* tax.

6  
7 The most interesting result of the Court's ruling was a Treasury  
8 Decision ("T.D.") that the U.S. Department of the Treasury later  
9 issued as a direct consequence of the high Court's opinion. In  
10 T.D. 2313, the U.S. Treasury Department expressly cited the  
11 Brushaber decision, and it identified Frank Brushaber as a  
12 "nonresident alien" and the Union Pacific Railroad Company as a  
13 "domestic corporation". This Treasury Decision has never been  
14 modified or repealed.

15  
16 T.D. 2313 is crucial evidence proving that the income tax  
17 provisions of the IRC are municipal law, with no territorial  
18 jurisdiction inside the 50 States of the Union. The U.S.  
19 Secretary of the Treasury who approved T.D. 2313 had no authority  
20 to extend the holding in the Brushaber case to anyone or anything  
21 not a proper Party to that court action.

22  
23 Thus, there is no escaping the conclusion that Frank Brushaber  
24 was the nonresident alien to which that Treasury Decision refers.  
25 Accordingly, all State Citizens are nonresident aliens with  
26 respect to the municipal jurisdiction of Congress, i.e. the  
27 federal zone.

28  
29  
30 13. What is a "Withholding agent"?

31  
32 Answer: (See Answer to Question 7 first.) The term "Withholding  
33 agent" is legally defined at IRC section 7701(a)(16). It is  
34 further defined by the statutes itemized in that section, e.g.  
35 IRC 1461 where liability for funds withheld is clearly assigned.  
36 In plain English, a "withholding agent" is a person who is  
37 responsible for withholding taxes from a worker's paycheck, and  
38 then paying those taxes into the Treasury of the United States,  
39 typically on a quarterly basis. See IRC section 7809.

40  
41 One cannot become a withholding agent unless workers first  
42 authorize taxes to be withheld from their paychecks. This  
43 authorization is typically done when workers opt to execute a  
44 valid W-4 "Employee's Withholding Allowance Certificate." In  
45 plain English, by signing a W-4 workers designate themselves as  
46 "employees" and certify they are allowing withholding to occur.

47  
48 If workers do not execute a valid W-4 form, a company's payroll  
49 officer is not authorized to withhold any federal income taxes  
50 from their paychecks. In other words, the payroll officer does  
51 not have "permission" or "power of attorney" to withhold taxes,  
52 until and unless workers authorize or "allow" that withholding --  
53 by signing Form W-4 knowingly, intentionally and voluntarily.

1 Pay particular attention to the term "Employee" in the title of  
2 this form. A properly executed Form W-4 creates the presumption  
3 that the workers wish to be treated *as if* they were "employees"  
4 of the federal government. Obviously, for people who do not work  
5 for the federal government, such a presumption is a legal  
6 fiction, at best.  
7  
8

9       14. What is a "Withholding Exemption Certificate"?

10      Answer: A "Withholding Exemption Certificate" is an alternative  
11     to Form W-4, authorized by IRC section 3402(n) and executed *in*  
12     *lieu of* Form W-4. Although section 3402(n) does authorize this  
13     Certificate, the IRS has never added a corresponding form to its  
14     forms catalog (see the IRS "Printed Products Catalog").  
15  
16

17      In the absence of an official IRS form, workers can use the  
18     language of section 3402(n) to create their own Certificates. In  
19     simple language, the worker certifies that s/he had no federal  
20     income tax liability last year, and anticipates no federal income  
21     tax liability during the current calendar year. Because there  
22     are no liability statutes for workers in the private sector, this  
23     certification is easy to justify.  
24

25      Many public and private institutions have created their own form  
26     for the Withholding Exemption Certificate, e.g. California  
27     Franchise Tax Board, and Johns Hopkins University in Baltimore,  
28     Maryland. This fact can be confirmed by using any search engine,  
29     e.g. google.com, to locate occurrences of the term "withholding  
30     exemption certificate" on the Internet. This term occurs several  
31     times in IRC section 3402.  
32  
33

34       15. What is "tax evasion" and who might be guilty of this crime?

35      Answer: "Tax evasion" is the crime of evading a lawful tax. In  
36     the context of federal income taxes, this crime can only be  
37     committed by persons who have a legal liability to pay, i.e. the  
38     withholding agent. If one is not employed by the federal  
39     government, one is not subject to the Public Salary Tax Act  
40     unless one chooses to be treated "as if" one is a federal  
41     government "employee." This is typically done by executing a  
42     valid Form W-4.  
43

44      However, as discussed above, Form W-4 is not mandatory for  
45     workers who are not "employed" by the federal government.  
46     Corporations chartered by the 50 States of the Union are  
47     technically "foreign" corporations with respect to the IRC; they  
48     are decidedly not the federal government, and should not be  
49     regarded "as if" they are the federal government, particularly  
50     when they were never created by any Act of Congress.  
51

1 Moreover, the Indiana Supreme Court has ruled that Congress can  
2 only create a corporation in its capacity as the Legislature for  
3 the federal zone. Such corporations are the only "domestic"  
4 corporations under the pertinent federal laws. This writer's  
5 essay entitled "A Cogent Summary of Federal Jurisdictions"  
6 clarifies this important distinction between "foreign" and  
7 "domestic" corporations in simple, straightforward language.  
8

9 If Congress were authorized to create *national* corporations, such  
10 a questionable authority would invade States' rights reserved to  
11 them by the Tenth Amendment, namely, the right to charter their  
12 own domestic corporations. The repeal of Prohibition left the  
13 Tenth Amendment unqualified. See the Constantine case supra.

14 For purposes of the IRC, the term "employer" refers only to  
15 federal government agencies, and an "employee" is a person who  
16 works for such an "employer".  
17

- 18  
19 16. Why does IRS Form 1040 not require a Notary Public to notarize a  
20 taxpayer's signature?  
21

22 Answer: This question is one of the fastest ways to unravel the  
23 fraudulent nature of federal income taxes. At 28 U.S.C. section  
24 1746, Congress authorized written verifications to be executed  
25 under penalty of perjury without the need for a Notary Public,  
26 i.e. to witness one's signature.  
27

28 This statute identifies two different formats for such written  
29 verifications: (1) those executed outside the "United States"  
30 and (2) those executed inside the "United States". These two  
31 formats correspond to sections 1746(1) and 1746(2), respectively.  
32

33 What is extremely revealing in this statute is the format for  
34 verifications executed "outside the United States". In this  
35 latter format, the statute adds the qualifying phrase "under the  
36 laws of the United States of America".  
37

38 Clearly, the terms "**United States**" and "**United States of America**"  
39 are both used in this same statute. They are not one and the  
40 same. The former refers to the federal government -- in the U.S.  
41 Constitution and throughout most federal statutes. The latter  
42 refers to the 50 States that are united by, and under, the U.S.  
43 Constitution. 28 U.S.C. 1746 is the only federal statute in all  
44 of Title 28 of the United States Code that utilizes the term  
45 "United States of America", as such.  
46

47 It is painfully if not immediately obvious, then, that  
48 verifications made under penalty of perjury are *outside* the 50  
49 States of the Union (read "the State zone") if and when they are  
50 executed *inside* the "**United States**" (read "the federal zone").  
51

1 Likewise, verifications made under penalty of perjury are *inside*  
2 the 50 States of the Union, if and when they are executed *outside*  
3 the "**United States**".

4  
5 The format for signatures on Form 1040 is the one for  
6 verifications made *inside* the **United States** (federal zone) and  
7 *outside* the **United States of America** (State zone).  
8  
9

- 10 17. Does the term "**United States**" have multiple legal meanings and,  
11 if so, what are they?

12  
13 Answer: Yes. The term has several meanings. The term "United  
14 States" may be used in any one of several senses. [1] It may be  
15 merely the name of a sovereign occupying the position analogous  
16 to that of other sovereigns in the family of nations. [2] **It may**  
17 **designate the territory over which the sovereignty of the United**  
18 **States extends**, or [3] it may be the collective name of the  
19 States which are united by and under the Constitution. See  
20 Hooven & Allison Co. v. Evatt, 324 U.S. 652 (1945) [**bold**  
21 emphasis, brackets and numbers added for clarity].  
22

23 This is the very same definition that is found in Black's Law  
24 Dictionary, Sixth Edition. The second of these three meanings  
25 refers to the federal zone and to Congress only when it is  
26 legislating in its municipal capacity. For example, Congress is  
27 legislating in its municipal capacity whenever it creates a  
28 federal corporation, like the United States Postal Service.  
29  
30

31 It is terribly revealing of the manifold frauds discussed in  
32 these Answers, that the definition of "**United States**" has now  
33 been removed from the Seventh Edition of Black's Law Dictionary.  
34

- 35 18. Is the term "income" defined in the IRC and, if not, where is it  
36 defined?

37  
38 Answer: The Eighth Circuit Court of Appeals has already ruled  
39 that the term "income" is not defined anywhere in the IRC: "The  
40 general term 'income' is not defined in the Internal Revenue  
41 Code." U.S. v. Ballard, 535 F.2d 400, 404 (8th Circuit, 1976).  
42

43 Moreover, in Mark Eisner v. Myrtle H. Macomber, 252 U.S. 189  
44 (1920), the high Court told Congress it could not legislate any  
45 definition of "income" because that term was believed to be in  
46 the U.S. Constitution. The Eisner case was predicated on the  
47 ratification of the 16<sup>th</sup> amendment, which would have introduced  
48 the term "income" into the U.S. Constitution for the very first  
49 time (but only if that amendment had been properly ratified).  
50

51 In Merchant's Loan & Trust Co. v. Smietanka, 255 U.S. 509 (1921),  
52 the high Court defined "income" to mean the profit or gain  
53 derived from corporate activities. In that instance, the tax is  
54 a lawful excise tax imposed upon the corporate privilege of

1 limited liability, i.e. the liabilities of a corporation do not  
2 reach its officers, employees, directors or stockholders.  
3

- 4
- 5 19. What is municipal law, and are the IRC's income tax provisions  
6 municipal law, or not?

7

8 Answer: Yes. The IRC's income tax provisions are municipal law.  
9 Municipal law is law that is enacted to govern the internal  
10 affairs of a sovereign State; in legal circles, it is also known  
11 as Private International Law. Under American Law, it has a much  
12 wider meaning than the ordinances enacted by the governing body  
13 of a municipality, i.e. city council or county board of  
14 supervisors. In fact, American legal encyclopedias define  
15 "municipal" to mean "internal", and for this reason alone, the  
16 Internal Revenue Code is really a *Municipal Revenue Code*.  
17

18 A mountain of additional evidence has now been assembled and  
19 published in the book "The Federal Zone" to prove that the IRC's  
20 income tax provisions are municipal law.  
21

22 One of the most famous pieces of evidence is a letter from a  
23 Connecticut Congresswoman, summarizing the advice of legal  
24 experts employed by the Congressional Research Service and the  
25 Legislative Counsel. Their advice confirmed that the meaning of  
26 "State" at IRC section 3121(e) is restricted to the named  
27 territories and possessions of D.C., Guam, Virgin Islands,  
28 American Samoa, and Puerto Rico.  
29

30 In other words, the term "State" in that statute, and in all  
31 similar federal statutes, includes ONLY the places expressly  
32 named, and no more.  
33

- 34
- 35 20. What does it mean if my State is not mentioned in any of the  
36 federal income tax statutes?  
37

38 The general rule is that federal government powers must be  
39 expressed and enumerated. For example, the U.S. Constitution is  
40 a grant of enumerated powers. If a power is not enumerated in  
41 the U.S. Constitution, then Congress does not have any authority  
42 to exercise that power. This rule is tersely expressed in the  
43 Ninth Amendment, in the Bill of Rights.  
44

45 If California is not mentioned in any of the federal income tax  
46 statutes, then those statutes have no force or effect within that  
47 State. This is also true of all 50 States.  
48

49 Strictly speaking, the omission or exclusion of anyone or any  
50 thing from a federal statute can be used to infer that the  
51 omission or exclusion was intentional by Congress. In Latin,  
52 this is tersely stated as follows: *Inclusio unius est exclusio  
alterius*. In English, this phrase is literally translated:  
53 Inclusion of one thing is the exclusion of all other things [that  
54

1 are not mentioned]. This phrase can be found in any edition of  
2 Black's Law Dictionary; it is a maxim of statutory construction.  
3

4 The many different definitions of the term "State" that are found  
5 in federal laws are intentionally written to appear *as if* they  
6 include the 50 States PLUS the other places mentioned. As the  
7 legal experts in Congress have now confirmed, this is NOT the  
8 correct way to interpret, or to construct, these statutes.  
9

10 If a place is not mentioned, every American may correctly infer  
11 that the omission of that place from a federal statute was an  
12 intentional act of Congress. Whenever it wants to do so,  
13 Congress knows how to define the term "United States" to mean the  
14 50 States of the Union. See IRC section 4612(a)(4)(A).  
15  
16

- 17 21. In what other ways is the IRC deliberately vague, and what are  
18 the real implications for the average American?  
19

20 There are numerous other ways in which the IRC is deliberately  
21 vague. The absence of any legal definition for the term "income"  
22 is a classic deception. The IRS enforces the Code as a tax on  
23 everything that "comes in," but nothing could be further from the  
24 truth. "Income" is decidedly NOT everything that "comes in."  
25

26 More importantly, the fact that this vagueness is deliberate is  
27 sufficient grounds for concluding that the entire Code is null,  
28 void and unconstitutional, for violating our fundamental Right to  
29 know the nature and cause of any accusation, as guaranteed by the  
30 Sixth Amendment in the Bill of Rights.  
31

32 Whether the vagueness is deliberate or not, any statute is  
33 unconstitutional void if it is vague. If a statute is void for  
34 vagueness, the situation is the same as if it had never been  
35 enacted at all, and for this reason it can be ignored entirely.  
36  
37

- 38 22. Has Title 26 of the United States Code ("U.S.C.") ever been  
39 enacted into positive law, and what are the legal implications if  
40 Title 26 has not been enacted into positive law?  
41

42 Answer: No. Another, less obvious case of deliberate deception  
43 is the statute at IRC section 7851(a)(6)(A), where it states that  
44 the provisions of subtitle F shall take effect on the day after  
45 the date of enactment of "this title". Because the term "this  
46 title" is not defined anywhere in the IRC, least of all in the  
47 section dedicated to definitions, one is forced to look elsewhere  
48 for its meaning, or to derive its meaning from context.  
49

50 Throughout Title 28 of the United States Code -- the laws which  
51 govern all the federal courts -- the term "this title" clearly  
52 refers to Title 28. This fact would tend to support a conclusion  
53 that "this title", as that term is used in the IRC, refers to

1 Title 26 of the United States Code. However, Title 26 has never  
2 been enacted into positive law, as such.  
3

4 Even though all federal judges may know the secret meaning of  
5 "this title", they are men and women of UNcommon intelligence.  
6 The U.S. Supreme Court's test for vagueness is violated whenever  
7 men and women of common intelligence must necessarily guess at  
8 the meaning and differ as to the application of a vague statute.  
9 See Connally et al. v. General Construction Co., 269 U.S. 385,  
10 391 (1926). Thus, federal judges are applying the wrong test for  
11 vagueness.  
12

13 Accordingly, the provisions of subtitle F have never taken  
14 effect. ("F" is for enForcement!) This subtitle contains all of  
15 the enforcement statutes of the IRC, e.g. filing requirements,  
16 penalties for failure to file and tax evasion, grants of court  
17 jurisdiction over liens, levies and seizures, summons enforcement  
18 and so on.  
19

20 In other words, the IRC is a big pile of Code without any teeth;  
21 as such, it can impose no legal obligations upon anyone, not even  
22 people with dentures!  
23  
24

- 25 23. What federal courts are authorized to prosecute income tax  
26 crimes?  
27

28 This question must be addressed in view of the Answer to Question  
29 22 above. Although it may appear that certain statutes in the  
30 IRC grant original jurisdiction to federal district courts, to  
31 institute prosecutions of income tax crimes, none of the statutes  
32 found in subtitle F has ever taken effect. For this reason,  
33 those statutes do not authorize the federal courts to do anything  
34 at all. As always, appearances can be very deceiving. Remember  
35 the *Wizard of Oz* or the mad tea party of *Alice in Wonderland*?  
36

37 On the other hand, the federal criminal Code at Title 18, U.S.C.,  
38 does grant general authority to the District Courts of the United  
39 States ("DCUS") to prosecute violations of the statutes found in  
40 that Code. See 18 U.S.C. 3231.  
41

42 It is very important to appreciate the fact that these courts are  
43 not the same as the United States District Courts ("USDC"). The  
44 DCUS are constitutional courts that originate in Article III of  
45 the U.S. Constitution. The USDC are territorial tribunals, or  
46 legislative courts, that originate in Article IV, Section 3,  
47 Clause 2 of the U.S. Constitution, also known as the Territory  
48 Clause.  
49

50 This author's OPENING BRIEF to the Eighth Circuit on behalf of  
51 the Defendant in USA v. Gilbertson cites numerous court cases  
52 that have already clarified the all important distinction between  
53 these two classes of federal district courts. For example, in  
54 Balzac v. Porto Rico, 258 U.S. 298 at 312 (1922), the high Court

1 held that the USDC belongs in the federal Territories. This  
2 author's OPENING BRIEF to the Ninth Circuit in Mitchell v. AOL  
3 Time Warner, Inc. et al. develops this theme in even greater  
4 detail; begin reading at section "7(e)".  
5

6 The USDC, as such, appear to lack any lawful authorities to  
7 prosecute income tax crimes. The USDC are legislative tribunals  
8 where *summary proceedings* dominate.  
9

10 For example, under the federal statute at 28 U.S.C. 1292, the  
11 U.S. Courts of Appeal have no appellate jurisdiction to review  
12 interlocutory orders issued by the USDC. Further details on this  
13 point are available in the Press Release entitled "Private  
14 Attorney General Cracks Title 28 of the United States Code" and  
15 dated November 26, 2001 A.D.  
16  
17

- 18 24. Are federal judges required to pay income taxes on their pay, and  
19 what are the real implications if they do pay taxes on their pay?  
20

21 Answer: No. Federal judges who are appointed to preside on the  
22 District Courts of the United States -- the Article III  
23 constitutional courts -- are *immune* from any taxation of their  
24 pay, by constitutional mandate.  
25

26 The fact that all federal judges are currently paying taxes on  
27 their pay is proof of undue influence by the IRS, posing as a  
28 duly authorized agency of the Executive Branch. See Evans v.  
29 Gore, 253 U.S. 245 (1920).  
30

31 Even if the IRS were a lawful bureau or department within the  
32 U.S. Department of the Treasury (which they are NOT), the  
33 existence of undue influence by the Executive Branch would  
34 violate the fundamental principle of Separation of Powers. This  
35 principle, in theory, keeps the 3 branches of the federal  
36 government confined to their respective areas, and prevents any  
37 one branch from usurping the lawful powers that rightly belong to  
38 the other two branches.  
39

40 The Separation of Powers principle is succinctly defined in  
41 Williams v. United States, 289 U.S. 553 (1933); however, in that  
42 decision the Supreme Court erred by defining "Party" to mean only  
43 Plaintiffs in Article III, contrary to the definition of "Party"  
44 that is found in Bouvier's Law Dictionary (1856).  
45

46 The federal judiciary, contemplated by the organic U.S.  
47 Constitution, was intended to be independent and unbiased. These  
48 two qualities are the essence, or *sine qua non* of judicial power,  
49 i.e. without which there is nothing. Undue influence obviously  
50 violates these two qualities. See Evans v. Gore *supra*.  
51

52 In Lord v. Kelley, 240 F.Supp. 167, 169 (1965), the federal judge  
53 in that case was honest enough to admit, in his published  
54 opinion, that federal judges routinely rule in favor of the IRS,

1 because they fear the retaliation that might result from ruling  
2 against the IRS. There you have it, from the horse's mouth!

3  
4 In front of a class of law students at the University of Arizona  
5 in January of 1997, Chief Justice William H. Rehnquist openly  
6 admitted that all federal judges are currently paying taxes on  
7 their judicial pay. This writer was an eyewitness to that  
8 statement by the Chief Justice of the U.S. Supreme Court -- the  
9 highest Court in the land.

10  
11 Thus, all federal judges are now *material witnesses* to the  
12 practice of concealing the Withholding Exemption Certificate from  
13 them, when they were first hired as "employees" of the federal  
14 judiciary. As material witnesses, they are thereby disqualified  
15 from presiding on all federal income tax cases.

- 16  
17  
18 25. Can federal grand juries issue valid indictments against illegal  
19 tax protesters?

20  
21 Answer: No. Federal grand juries cannot issue valid indictments  
22 against illegal tax protesters. Protest has never been illegal  
23 in America, because the First Amendment guarantees our  
24 fundamental Right to express our objections to any government  
25 actions, in written and in spoken words.

26  
27 Strictly speaking, the term "illegal" cannot modify the noun  
28 "protesters" because to do so would constitute a violation of the  
29 First Amendment in the Bill of Rights, one of the most  
30 magnificent constitutional provisions ever written.

31  
32 Accordingly, for the term "illegal tax protester" to survive this  
33 obvious constitutional challenge, the term "illegal" must modify  
34 the noun "tax". An illegal tax protester is, therefore, someone  
35 who is protesting an illegal tax. Such an act of protest is  
36 protected by the First Amendment, and cannot be a crime.

37  
38 Protest is also recognized and honored by the Uniform Commercial  
39 Code; the phrases "under protest" and "without prejudice" are  
40 sufficient to reserve all of one's fundamental Rights at law.  
41 See U.C.C. 1-207 (UCCA 1207 in California).

42  
43 By the way, the federal U.C.C. is also municipal law. See the  
44 Answer to Question 19 above, and 77 Stat. 630, P.L. 88-243,  
45 December 30, 1963 (one month after President John F. Kennedy was  
46 murdered).

- 47  
48  
49 26. Do IRS agents ever tamper with federal grand juries, and how is  
50 this routinely done?

51  
52 Answer: Yes. IRS agents routinely tamper with federal grand  
53 juries, most often by misrepresenting themselves, under oath, as  
54 lawful employees and "Special Agents" of the federal government,

1 and by misrepresenting the provisions of subtitle F as having any  
2 legal force or effect. Such false representations of fact  
3 violate Section 43(a) of the Lanham Act, uncodified at 15 U.S.C.  
4 1125(a). (Title 15 of the United States Code has not been  
5 enacted into positive law either.)  
6

7 They tamper with grand juries by acting as if "income" is  
8 everything that "comes in", when there is no such definition  
9 anywhere in the IRC. Such false descriptions of fact also  
10 violate Section 43(a) of the Lanham Act.  
11

12 They tamper with grand juries by presenting documentary evidence  
13 which they had no authority to acquire, in the first instance,  
14 such as bank records. Bank signature cards do not constitute  
15 competent waivers of their customers' fundamental Rights to  
16 privacy, as secured by the Fourth Amendment. The high standard  
17 for waivers of fundamental Rights was established by the U.S.  
18 Supreme Court in Brady v. U.S., 397 U.S. 742, 748 (1970).  
19

20 IRS agents tamper with grand juries by creating and maintaining  
21 the false and fraudulent pretenses that the IRC is not vague, or  
22 that the income tax provisions have any legal force or effect  
23 inside the 50 States of the Union, when those provisions do not.  
24

25 These are all forms of perjury, as well, and possibly also  
26 misprision of perjury by omission, i.e. serious federal offenses.  
27

28 Finally, there is ample evidence that IRS agents bribe U.S.  
29 Attorneys, federal judges, and even the Office of the President  
30 with huge kickbacks, every time a criminal indictment is issued  
31 by a federal grand jury against an illegal tax protester. (See  
32 the Answer to Question 25 above.) These kick-backs range from  
33 \$25,000 to \$35,000 in CASH! They also violate the Anti-Kickback  
34 Act of 1986, which penalizes the payment of kickbacks from  
35 federal government subcontractors. See 41 U.S.C. 51 et seq.  
36

37 As a trust domiciled in Puerto Rico, the IRS is, without a doubt,  
38 a federal government subcontractor that is subject to this Act.  
39 See 31 U.S.C. 1321(a)(62). The systematic and premeditated  
40 pattern of racketeering by IRS employees also establishes  
41 probable cause to dismantle the IRS permanently for violating the  
42 Sherman Antitrust Act, first enacted in the year 1890 A.D. See  
43 26 Stat. 209 (1890) (uncodified at 15 U.S.C. 1 et seq.)  
44

45 27. What is "The Kickback Racket," and where can I find evidence of  
46 its existence?  
47

48 The evidence of this "kickback racket" was first discovered in a  
49 table of delegation orders, on a page within the Internal Revenue  
50 Manual ("IRM") -- the internal policy and procedure manual for  
51 all IRS employees.  
52

1 Subsequently, this writer submitted a lawful request, under the  
2 Freedom of Information Act, for a certified list of all payments  
3 that had ever been made under color of these delegation orders in  
4 the IRM. Mr. Mark L. Zolton, a tax law specialist within the  
5 Internal Revenue Service, responded on IRS letterhead,  
6 transmitted via U.S. Mail, that few records existed for these  
7 "awards" because most of them were paid in cash!

8  
9 When this evidence was properly presented to a federal judge, who  
10 had been asked to enforce a federal grand jury subpoena against a  
11 small business in Arizona, he ended up obstructing all 28 pieces  
12 of U.S. Mail we had transmitted to that grand jury.

13  
14 Obstruction of correspondence is a serious federal offense, and  
15 federal judges have no authority whatsoever to intercept U.S.  
16 Mail. See 18 U.S.C. 1702.

17  
18 Obviously, the federal judge -- John M. Roll -- did NOT want the  
19 grand jury in that case to know anything about these kickbacks.  
20 They found out anyway, because of the manner in which this writer  
21 defended that small business, as its Vice President for Legal  
22 Affairs.

23  
24 28. Can the IRS levy bank accounts without a valid court order?

25  
26 Answer: No. The Fifth Amendment prohibits all deprivations of  
27 life, liberty, or property without due process of law. Due  
28 Process of Law is another honored and well developed feature of  
29 American constitutional practice. Put simply, it requires Notice  
30 and Hearing before any property can be seized by any federal  
31 government employees, agents, departments or agencies.

32  
33 A levy against a bank account is a forced seizure of property,  
34 i.e. the funds on deposit in that account. No such seizure can  
35 occur unless due process of law has first run its course. This  
36 means notice, hearing, and deliberate adjudication of all the  
37 pertinent issues of law and fact.

38  
39 Only after this process has run its proper or "due" course, can a  
40 valid court order be issued. The holding in U.S. v. O'Dell, 160  
41 F.2d 304 (6th Cir. 1947), makes it very clear that the IRS can  
42 only levy a bank account after first obtaining a Warrant of  
43 Distraint, or court ORDER. And, of course, no court ORDER could  
44 ever be obtained unless all affected Parties had first enjoyed  
45 their "day in court."

46  
47 48 29. Do federal income tax revenues pay for any government services  
49 and, if so, which government services are funded by federal  
50 income taxes?

51  
52 Answer: No. The money trail is very difficult to follow, in  
53 this instance, because the IRS is technically a trust with a

domicile in Puerto Rico. See 31 U.S.C. 1321(a)(62). As such, their records are protected by laws which guarantee the privacy of trust records within that territorial jurisdiction, provided that the trust is not also violating the Sherman Antitrust Act.

They are technically not an "agency" of the federal government, as that term is defined in the Freedom of Information Act and in the Administrative Procedures Act. The governments of the federal territories are expressly excluded from the definition of "agency" in those Acts of Congress. See 5 U.S.C. 551(1)(C). (See also the Answer to Question 5 above.)

All evidence indicates that they are a money laundry, extortion racket, and conspiracy to engage in a pattern of racketeering activity, in violation of 18 U.S.C. 1951 and 1961 et seq.

They appear to be laundering huge sums of money into foreign banks, mostly in Europe, and quite possibly into the Vatican. See the national policy on money laundering at 31 U.S.C. 5341.

The final report of the Grace Commission, convened under President Ronald Reagan, quietly admitted that none of the funds they collect from federal income taxes goes to pay for any federal government services. The Grace Commission found that those funds were being used to pay for interest on the federal debt, and income transfer payments to beneficiaries of entitlement programs like federal pension plans.

30. How can the Freedom of Information Act ("FOIA") help me to answer other key tax questions?

The availability of correct information about federal government operations is fundamental to maintaining the freedom of the American People. The Freedom of Information Act ("FOIA"), at 5 U.S.C. 552 et seq., was intended to make government documents available with a minimal amount of effort by the People.

As long as a document is not protected by one of the reasonable exemptions itemized in the FOIA, a requester need only submit a brief letter to the agency having custody of the requested document(s). If the requested document is not produced within 20 working days (excluding weekends and federal holidays), the requester need only prepare a single appeal letter.

If the requested document is not produced within another 20 working days after the date of the appeal letter, the requester is automatically allowed to petition a District Court of the United States (Article III DCUS, not the Article IV USDC) -- to compel production of the requested document, and judicially to enjoin the improper withholding of same. See 5 U.S.C. 552(a)(4)(B). The general rule is that statutes conferring original jurisdiction on federal district courts must be strictly construed.

1       This writer has pioneered the application of the FOIA to request  
2       certified copies of statutes and regulations which should exist,  
3       but do not exist. A typical request anyone can make, to which  
4       the U.S. Treasury has now fallen totally silent, is for **a  
5       certified copy of all statutes which create a specific liability  
6       for taxes imposed by subtitle A of the IRC.** For example, see the  
7       FOIA request that this writer prepared for author Lynne Meredith.  
8

9       Of course, by now we already know the answer to this question,  
10      before asking it. (Good lawyers always know the answers to their  
11      questions, before asking them.)  
12

13      It should also be clear that such a FOIA request should not be  
14      directed to the IRS, because they are not an "agency" as that  
15      term is defined at 5 U.S.C. 551(1)(C). Address it instead to the  
16      Disclosure Officer, Disclosure Services, Room 1054-MT, U.S.  
17      Department of the Treasury, Washington 20220, DISTRICT OF  
18      COLUMBIA, USA. This is the format for "foreign" addresses, as  
19      explained in USPS Publication #221.  
20

21      As James Madison once wrote, "A popular government without  
22      popular information or the means of acquiring it, is but a  
23      Prologue to a Farce or a Tragedy or perhaps both. Knowledge will  
24      forever govern ignorance, and a people who mean to be their own  
25      Governors, must arm themselves with the power knowledge gives."  
26

27      31. Where can I find more information, and *still* protect my privacy?  
28

29      There are many civic organizations throughout America who have  
30      dedicated their precious time and energy to acquire and  
31      disseminate widely these documented truths about the Internal  
32      Revenue Service and the Internal Revenue Code.  
33

34      The Internet's World Wide Web ("www") is perhaps the best single  
35      source of information (and disinformation) about the IRS, and the  
36      major problems now confirmed in the IRC and in the mountains of  
37      related policies, procedures, practices, customs, rules,  
38      regulations, forms and schedules.  
39

40      Learn to become a sophisticated consumer of information, and the  
41      knowledge you seek will be yours to keep and share -- with those  
42      you love and endeavor to free from this terrible plague that  
43      persists in America.  
44

45      46  
47      Good luck, and may God bless your earnest endeavors to ensure the  
48      blessings of Liberty for ourselves and our Posterity, as stated in the  
49      Preamble to the U.S. Constitution and in the Declaration of  
50      Independence.  
51

To order additional certified and embossed copies of this document,  
please send \$30.00 in cash or blank U.S. Postal Money Order to:

**Forwarding Agent  
c/o UPS PMB #332  
501 W. Broadway, Suite "A"  
San Diego 92101  
CALIFORNIA, USA**

A "blank" U.S. Postal Money Order leaves the "PAY TO" line blank, permitting us to negotiate it freely. You may, of course, complete the other half; this allows you to obtain a photocopy of the cancelled money order from the U.S. Postal Service without the need for a court order.

Also, be sure to request information about our MOTIONS FOR PRELIMINARY INJUNCTION to freeze all IRS assets and to enjoin IRS from depositing any tax collections into any account(s) other than the Treasury of the United States. These MOTIONS were filed in two appeals at the Ninth Circuit in San Francisco, using FRAP Rule 8 and the special procedures available to a Private Attorney General under the RICO laws.

Finally, don't miss this opportunity to request more information about our historic APPLICATION FOR ORDER DISSOLVING THE INTERNAL REVENUE SERVICE, under a specific authority granted to the District Courts of the United States ("DCUS") at 18 U.S.C. 1964(a). Refer to DCUS docket #SA CV 02-0382 GLT(ANx), Santa Ana, California, or send a blank email message to usintervention@yahoo.com. The vacation autoresponder will respond with a list of Internet folders where several court pleadings and related documents can be found.

## **VERIFICATION**

As the Undersigned, I hereby verify, under penalty of perjury, under the laws of the **United States of America**, without the "**United States**" (federal government), that the above statement of facts and laws is true and correct, according to the best of My current information, knowledge, and belief, so help Me God, pursuant to 28 U.S.C. 1746(1). See the Supremacy Clause for Constitutional authority.

Dated:

February 2, 2005 A.D.

Signed:  
Printed

Paul Andrew Mitchell, B.A., M.S  
Citizen of California, qualified Federal Witness,  
Private Attorney General, Author of "The Federal Zone:  
Cracking the Code of Internal Revenue" (all editions),  
and Webmaster of the Supreme Law Library:

<http://www.supremelaw.org/index.htm>

**State and Federal Court Cases in Which  
Certified Copies of 31Q&A Were Entered into Evidence**

Meredith et al. v. Erath et al.

Ninth Circuit Appeal No. 01-56873:

<http://www.supremelaw.org/cc/meredith2/nad01.htm>

Meredith et al. v. Erath et al.

Ninth Circuit Cross-Appeal No. 02-55021:

<http://www.supremelaw.org/cc/erath/nad01.htm>

People ex rel. Bybee v. Erath et al.

DCUS, Santa Ana, California No. SA-CV-02-0382-GLT(ANx) :

<http://www.supremelaw.org/cc/giordano/nad01.htm>

USA v. Meredith et al.

USDC, Los Angeles, California No. 02-0372:

<http://www.supremelaw.org/cc/giordano/nad02.htm>

Longner v. Desert Health Trust et al.

USDC, Phoenix, Arizona No. CIV'02-0698-PCT-FJM:

<http://www.supremelaw.org/cc/macdonald/nad07.htm>

Schmeeckle v. Rose Hills Co., Inc.

Superior Court of California, Santa Ana No. 03NL37156:

<http://www.supremelaw.org/cc/schmeeckle/complaint.htm>

1 PRESIDENT'S ADVISORY U.S. Secretary of the Treasury Falls Silent  
2 PANEL n Face of SUBPOENA for Tax Liability Statutes  
3

4 2005 MAR 30 A 8:48

5 by

6 Paul Andrew Mitchell, B.A., M.S.  
7 Counselor at Law, Federal Witness  
8 and Private Attorney General

9 FOR IMMEDIATE RELEASE

10 November 7, 2002 A.D.

11 San Diego, California. Paul H. O'Neill, Secretary of the U.S.  
12 Department of the Treasury in Washington, D.C., has now defaulted by  
13 falling silent in the face of a civil SUBPOENA issued by the Article  
14 III federal court in Santa Ana, California.

15 The Clerk of that court commanded Secretary O'Neill to produce  
16 certified copies of all federal Statutes at Large which create a  
17 specific liability for income taxes imposed by subtitle A of the  
18 Internal Revenue Code. All Acts of Congress are first published in  
19 the Statutes at Large; some are later codified in the U.S. Code.

20 The deadline for complying with the SUBPOENA was midnight on  
21 Friday, November 1, 2002 A.D. The SUBPOENA was mailed by this writer  
22 on September 14, 2002 A.D. via Registered U.S. Mail from the airport  
23 Post Office in San Diego, California, with Return Receipt requested.  
24 A courtesy reminder was mailed on October 15, 2002 A.D.

25 The SUBPOENA was issued with detailed directions for delivery of  
26 the certified statutes to a list of several litigants and other key  
27 players in as many federal and State court cases. The federal cases  
28 included proceedings now underway at the U.S. Supreme Court, U.S.  
29 Courts of Appeal, and federal district courts.

30 A Florida State case was also listed, because it seeks to nullify  
31 four bogus Notices of Federal Tax Lien filed against a retired  
32 physician at a County Recorder's office there.

33 The focus of the SUBPOENA has arisen from many years of concerted  
34 research and activism to expose the Internal Revenue Code as a massive  
35 fiscal fraud upon the American People.

36 Specifically, a key authority from American Jurisprudence, a  
37 popular legal encyclopedia, states that an administrative agency may  
38 not create any liability not sanctioned by the lawmaking authority,  
39 especially a liability for a tax. 2 Am Jur 2d, page 129.

40 This key authority was first discovered when this author was busy  
41 answering the enormous volume of correspondence generated by the first  
42 edition of "The Federal Zone: Cracking the Code of Internal Revenue."

43 Later editions quoted American Jurisprudence in a letter  
44 published in Appendix "P" of that book. Some appendices in "The  
45 Federal Zone" are so large, this detail went mostly unnoticed by the  
46 book's many readers. Printed copies of "The Federal Zone" are now  
47 sold without appendices, in order to reduce shipping bulk.

48 As more evidence accumulated, primarily for purposes of filing  
49 affidavits and preparing testimony for State and federal litigation,  
50 this author wrote another document entitled "31 Questions and Answers  
51 about the Internal Revenue Service," abbreviated "31Q&A". Initial  
52 versions of 31Q&A cited the key authority at issue here by reference  
53 to "2 Am Jur 2d, page 129." See the Answer to Question #8 in 31Q&A.

1       Oddly, 31Q&A readers who bothered to check, later returned to  
2 report this citation had been removed from American Jurisprudence.

3       Now the hunt was on to locate the missing original authority.

4       This writer scheduled time to approach a professional reference  
5 librarian at the downtown law library in San Diego, California.  
6 Fortunately, he confirmed that American Jurisprudence had been revised  
7 since 1992, and then he succeeded in locating the preceding edition in  
8 locked archives at that law library.

9       It was a moment to remember: Mike says, "Here are those older  
10 volumes, Paul. Do you have the exact citation?" Paul says, "Yes.  
11 It's 2 Am Jur 2d, page 129." Mike reaches for Volume 2, opens it to  
12 page 129, and hands this page to Paul. "Does this look familiar?"  
13 Mike asks. "Let me read it to you," answers Paul.

14      After reading the key authority and the corresponding footnote  
15 which cites the case of Commissioner v. Acker, decided by the U.S.  
16 Supreme Court in 1959, Mike replied, "You have a Supreme Court  
17 authority there. It doesn't get any better than that!"

18      It was a quiet moment of triumph for this writer, capping 12 full  
19 years of concerted effort -- real blood, sweat and tears -- all  
20 required to dismantle the Internal Revenue Service once and for all.

21      Now that Secretary of the Treasury Paul H. O'Neill has fallen  
22 silent in the face of a proper and lawful SUBPOENA IN A CIVIL CASE for  
23 the missing liability statutes, the wheels of justice are expected to  
24 grind out an unavoidable solution from here on.

25      Specifically, laws governing the federal courts authorize parties  
26 to compel answers to SUBPOENAs, and to move those courts for sanctions  
27 such as contempt of court. Recently, another member of President  
28 George Bush's cabinet was held in contempt by a federal district  
29 court; thus, ample court precedent exists to hold O'Neill in contempt  
30 of court -- for not answering. Only time will tell if such contempt  
31 proceedings will escalate to the level of a criminal investigation.

32      On a much broader scale, the absence of liability statutes raises  
33 the specter of widespread government fraud, going all the way back to  
34 the year 1913. And, there is no statute of limitations on fraud.

35      The main problem which the SUBPOENA seeks to solve is to confirm,  
36 once and for all, the apparent absence of any federal statutes which  
37 create a specific liability for income taxes imposed by subtitle A of  
38 the Internal Revenue Code.

39      Even though the federal regulations for IRC section 1 do create a  
40 specific liability for federal citizens and for resident aliens, that  
41 section of the IRC does not create a specific liability for these two  
42 classes of people.

43      The Acker decision by the U.S. Supreme Court is clear and  
44 unequivocal in holding that regulations cannot exceed the underlying  
45 statutory authority. See Commissioner v. Acker, 361 U.S. 87 (1959).

46      Examples of liability statutes can be found at IRC section 1461  
47 for withholding agents, and section 3403 for federal employment taxes.

48      Clearly, until withholding agents remit the taxes they have  
49 withheld, they are made specifically liable for those taxes by section  
50 1461. Likewise, the Public Salary Tax Act creates a specific  
51 liability for taxes imposed upon the privilege of employment with the  
52 federal government.

53      These legal details are explained clearly in 31Q&A.

The absence of any statutes creating a specific liability for subtitle A income taxes means, quite simply, that federal income taxes are totally and completely voluntary, in the common everyday meaning of that term. Liability only begins when Form 1040 is signed.

Further stunning proof that these taxes are truly voluntary can be found at IRC section 3402(n). Here, Congress has authorized a form called the "withholding exemption certificate" abbreviated "WEC". The term "withholding exemption certificate" occurs a total of seventeen (17) times in that one statute alone.

However, the Internal Revenue Service ("IRS") has never created an official form for the WEC.

Making matters much worse, it is now becoming painfully clear that all federal judges are material witnesses to the practice of concealing the withholding exemption certificate from them, when they were first hired by the federal judiciary.

Chief Justice William H. Rehnquist has openly admitted, to a class of law students at the University of Arizona, that all federal judges are currently paying taxes on their pay, without exception.

If federal judges are material witnesses to the subject matter before them, such as federal taxes, the statute at 28 U.S.C. 455 expressly prohibits them from presiding on all such cases. Federal judges are also immune from taxation on their pay, by constitutional mandate. See Article III, Section 1, in the U.S. Constitution.

The implications of this conflict of interest are quite far-reaching, touching as they do literally thousands of court cases which have been decided by federal judges whose compensations have been diminished, contrary to the fundamental Law in our Constitution. Again, further details are fully explained in 31Q&A.

Paul Andrew Mitchell encourages all Americans to read the on-line version of 31Q&A, and to follow the numerous working hyperlinks to the mountain of supporting evidence, at Internet URL:

<http://www.supremelaw.org/sls/31answers.htm>

Certified and embossed copies of 31Q&A are available from the Supreme Law Firm for \$30. A referral program also makes it possible for buyers to get their money back, and to make a little profit too, by referring others to this immensely important document.

The SUBPOENA, PROOF OF SERVICE, and Delivery Instructions can be accessed at Internet URL:

<http://www.supremelaw.org/cc/eddings/subpoena.liability.htm>

The .gif files (Graphics Interchange Format) were output by a modern scanner. These can be enlarged or reduced by using the IMAGING program at START | PROGRAMS | ACCESSORIES in Microsoft Windows 98.

Alternatively, right click on a .gif file, then SAVE AS to your local hard disk, for viewing with any of a number of graphics programs that now abound for computers with Microsoft Windows software.

Image resizing is also automatic with Microsoft Internet Explorer version 6.0.2600+. Click on Tools | Internet Options | Advanced, scroll down to "Multimedia", then "Enable Automatic Image Resizing".

Progress with SUBPOENA enforcement will be reported at the Supreme Law Library. See the Update Highlights at [supremelaw.org](http://supremelaw.org).

2 Am Jur 2d, page 129 (1962)

Administrative Law

Section 301. -- Particular applications.

In application of the principles that the power of an administrative agency to make rules does not extend to the power to make legislation and that a regulation which is beyond the power of the agency to make is invalid, it has been held that **an administrative agency may not create a criminal offense or any liability not sanctioned by the lawmaking authority, and specifically a liability for a tax** [fn 2] or inspection fee. [bold emphasis added]

Footnote 2:

2. Commissioner of Internal Revenue v. Acker, 361 U.S. 87, 4 L.Ed.2d 127, 80 S.Ct. 144 (1959); Roberts v. Commissioner of Internal Revenue, 176 F.2d 221, 10 ALR.2d 186 (9<sup>th</sup> Cir. 1949) (... regulations "can add nothing to income as defined by Congress." citing M.E. Blatt Co. v. United States, 305 U.S. 267, 279, 59 S.Ct. 186, 190, 83 L.Ed. 167 (1938)); Independent Petroleum Corp. v. Fly, 141 F.2d 189, 152 ALR 928 (5<sup>th</sup> Cir. 1944) (... the power to make regulations does not extend to making taxpayers of those whom the Act, properly construed, does not tax); Indiana Dept. of State Revenue v. Colpaert Realty Corp., 231 Ind. 463, 109 NE.2d 415 (no power to render taxable a transaction which the statute did not make taxable); Morrison-Knudsen Co. v. State Tax Com., 242 Iowa 33, 44 NW.2d 449, 41 ALR.2d 523 (use tax).

Liability for the payment of the sales tax is controlled by statute; it cannot be controlled by rulings or regulations of the board. Acorn Iron Works v. State Board of Tax Administration, 295 Mich. 143, 294 NW 126, 139 ALR 368. Annotation: 139 ALR 380 ("retail sale").

Issued by the

**District Court of the United States**  
**CENTRAL DISTRICT OF CALIFORNIA**

*Tally H. Eddings*

v.

*Four Records, etc. et al.***SUBPOENA IN A CIVIL CASE****#6:01-CV-1299-ORL-28DAB**  
Case Number①*Middle District of Florida*

TO: Hon. Paul H. O'Neill, Secretary of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington 20220 DISTRICT OF COLUMBIA, USA

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

**PAST DUE**

COURTROOM

DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

*See attached Directions for Delivery etc.*

PLACE

*See attached (2 pages).*

DATE AND TIME

*Nov. 1, 2002 A.D.*

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

*SHERRI CARTER, CLERK*ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)  
BY: *[Signature]* DEPUTY CLERK

DATE

*9/14/2002 A.D.*

ISSUING OFFICER'S STREET ADDRESS AND TELEPHONE NUMBER

SANTA ANA, CA 92701  
(714) 338-4750**COPY***PGK*

(See Rule 45, Federal Rules of Civil Procedure, parts C &amp; D on reverse)

If action is pending in district other than district of issuance, state district under case number.

**Directions for Delivery of Following Documents  
Commanded by Attached SUBPOENA IN A CIVIL CASE**

Certified copies of all enacted Statutes at Large which create a specific liability for federal income taxes imposed by subtitle A of the Internal Revenue Code, filed with PROOFS OF SERVICE at each of the following mailing destinations, in quantities shown in parentheses:

- (1) Dr. Tally H. Eddings, II, M.D.  
187 Semoran Boulevard  
Fern Park 32730  
FLORIDA, USA (1x)

(2) Dr. John C. Alden, M.D.  
350 - 30<sup>th</sup> Street, Suite 444  
Oakland 94609-3426  
CALIFORNIA, USA (1x)

(3) Case No. 6:01-CV-1299-ORL-28DAB (3x)  
Tally H. Eddings v. Four Records, etc. et al.  
Attention: Sheryl L. Loesch, Clerk of Court  
United States District Court  
Middle District of Florida  
George C. Young U.S. Courthouse  
and Federal Building  
80 North Hughey Avenue  
Orlando 32801  
FLORIDA, USA

(4) Appeal No. 01-56873 (5x)  
Meredith et al. v. Erath et al.  
Attention: Cathy A. Catterson, Clerk of Court  
U.S. Court of Appeals for the Ninth Circuit  
P.O. Box 193939  
San Francisco 94119-3939  
CALIFORNIA, USA

(5) Cross-Appeal No. 02-55021 (5x)  
Meredith et al. v. Erath et al.  
Attention: Cathy A. Catterson, Clerk of Court  
U.S. Court of Appeals for the Ninth Circuit  
P.O. Box 193939  
San Francisco 94119-3939  
CALIFORNIA, USA

(6) Case No. SA-CV-02-0382-GLT(ANx) (3x)  
People ex rel. Bybee et al. v. Erath et al.  
Attention: Sherri Carter, Clerk of Court  
District Court of the United States  
Central Judicial District of California  
Southern Division  
411 West Fourth Street, Room 1-053  
Santa Ana 92701-4516  
CALIFORNIA, USA

- 1 (7) Case No. CR-02-00372-DDP (3x)  
2 USA v. Meredith et al.  
3 Attention: Clerk of Court  
4 United States District Court  
5 Central District of California  
6 Western Division  
7 312 North Spring Street, Room G-8  
8 Los Angeles 90012-4797  
9 CALIFORNIA, USA

10 (8) Case No. CV-02-04242-DDP (Mcx) (3x)  
11 People ex rel. Bybee et al. v. Erath et al.  
12 Attention: Clerk of Court  
13 United States District Court  
14 Central District of California  
15 Western Division  
16 312 North Spring Street, Room G-8  
17 Los Angeles 90012-4797  
18 CALIFORNIA, USA

19 (9) Mr. Paul Andrew Mitchell, B.A., M.S. (1x)  
20 Private Attorney General  
21 c/o Dr. John C. Alden, M.D.  
22 350 - 30<sup>th</sup> Street, Suite 444  
23 Oakland 94609-3426  
24 CALIFORNIA, USA

25 (10) Mr. Terry Eugene Busby, Petitioner (1x)  
26 Busby v. Internal Revenue Service  
27 U.S. Supreme Court No. 02-5017  
28 c/o 4875 New Tampa Highway  
29 Lakeland 33815  
30 FLORIDA, USA

31 (11) Office of the Solicitor General (1x)  
32 In re: Busby v. Internal Revenue Service  
33 U.S. Supreme Court No. 02-5017  
34 950 Pennsylvania Avenue, N.W., Room 5614  
35 Washington 20530-0001  
36 DISTRICT OF COLUMBIA, USA

37 (12) Office of the Chief Counsel (1x)  
38 Internal Revenue Service  
39 1111 Constitution Avenue, N.W.  
40 Washington 20224  
41 DISTRICT OF COLUMBIA, USA

42 (13) Case No. 05-2001-CA-006449-XXXX-XX (3x)  
43 Tally H. Eddings v. Four Records, etc. et al.  
44 Attention: Clerk of Court, Brevard County  
45 Eighteenth Judicial Circuit Court of Florida  
46 P.O. Box 2767  
47 Titusville 32781  
48 FLORIDA, USA

## AO 88 (Rev.11/94) Subpoena in a Civil Case

## PROOF OF SERVICE

SERVED	DATE	PLACE
	<u>Sept. 14, 2002 A.D.</u>	<u>U.S. Department of the Treasury 1500 Pennsylvania Ave., N.W. Washington 20220 D.C.</u>
SERVED ON (PRINT NAME)	MANNER OF SERVICE	
<u>Hon. Paul H. O'Neill, Secretary of the Treasury</u>	<u>Registered U.S. Mail Serial #RB773293057LS</u>	
SERVED BY (PRINT NAME)	TITLE	
<u>Paul Andrew Mitchell</u>	<u>Private Attorney General (see 18 U.S.C. 11964)</u>	

## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on 9/14/2002 A.D.

DATE

**COPY**

Paul Mitchell  
 SIGNATURE OF SERVER  
C/o 356-30th ST. #444  
 ADDRESS OF SERVER  
Oakland 94609-3426 CALIF.  
USA

## Rule 45, Federal Rules of Civil Procedure, Parts C &amp; D:

## (c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to comply production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance,

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to

attend trial be commanded to travel from any such place within the state in which the trial is held, or the demanding party to contest the claim.

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

## (B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## (d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

MIDWAY WINDOWS  
SAN DIEGO, California  
921109998

09/14/2002 (800)275-8777 02:37:26 PM

Product Description	Sales Qty	Receipt Sale Price	Unit Price	Final Price
WASHINGTON DC 20220				\$1.06
First-Class				
Return Receipt				\$1.75
Registered				\$7.50
Insured Value :				\$0.00
Article Value :				\$0.00
Label Serial #:				RB773293057US
\$5.00 Stamp	2	\$5.00		\$10.00
29c Stamp	1	\$0.29		\$0.29
2c Stamp	1	\$0.02		\$0.02

Total: \$10.31

Paid by:  
Cash \$10.31

BILL #: 1000400392832  
Clerk: 13

Refunds only per DMM P014  
— Thank you for your business —  
Customer Copy

**Registered Mail  
Receipt**



RB773293057US

<b>OFFICIAL MAIL USA</b>		Date Stamp
\$7.50		0110 09/14/2002 PHILADELPHIA PA 19101-3700
Post Office: Complete section.	Postage	\$0.00
	Return Receipt	\$1.75
Registered Fee	\$1.06	Restricted Delivery \$0.00
Handling Charge		Special Delivery
Total Postage and Fees \$		Received by ELIC O'D
Declared Value \$		Domestic value of contents at the time of mailing. Maximum amount of insurance coverage available is \$25,000. Fees for articles valued over \$25,000 are for handling only. You must declare domestic claims within one year of mailing and international claims within six months.
<b>FROM:</b> Print in ballpoint pen or type Dr. John C. Alden M.D. 350 - 30 ST. #444 Oakland 94609-3426 CALIF.		
<b>TO:</b> (Name, no., street, ste./apt. no., city, state, ZIP + 4) Hon. Michael J. Neill, Sec. Treasury 1500 Pennsylvania Ave., N.W. Washington 20220 D.C.		

PS Form 3806, June 2000

1-Customer 2 - Post Office

**COPY**

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

Hon. Paul H. O'Neill  
 Secretary of the Treasury  
 1500 Pennsylvania Av. NW  
 Washington 20220  
 DISTRICT OF COLUMBIA

## 2. Article Number

(Transfer from service label)

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1035

**COMPLETE THIS SECTION ON DELIVERY**

## A. Signature

X M Simon

 Agent  
 Addressee
 

## B. Received by (Printed Name)

M Simon

C. Date of Delivery  
8/20/02D. Is delivery address different from item 1?  YesIf YES, enter delivery address below:  No

## 3. Service Type

<input type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input checked="" type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

## 4. Restricted Delivery? (Extra Fee)

 Yes
 **COPY**

**COURTESY REMINDER**

TO: Hon. Paul H. O'Neill  
Secretary of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington 20220  
DISTRICT OF COLUMBIA, USA

FROM: Paul Andrew Mitchell, B.A., M.S.  
Private Attorney General, 18 U.S.C. 1964(a)

DATE: October 15, 2002 A.D.

SUBJECT: SUBPOENA IN A CIVIL CASE dated 9/14/2002 A.D.  
answer due on November 1, 2002 A.D.

PA

# PAST DUE

Greetings Secretary O'Neill:

We are writing to provide you with the following courtesy notice.

We do remind you that you have been commanded by the Clerk of the Article III District Court of the United States ("DCUS"), Central District of California, to produce the documents that were itemized in the Directions for Delivery attached to that SUBPOENA.

We posted the original of that SUBPOENA on September 14, 2002 A.D. via Registered U.S. Mail, serial number #RB773293057US, at Midway Station in San Diego 92110-9998, CALIFORNIA, USA, with Return Receipt requested (see enclosed).

Copies of the completed USPS Form 3811 ("green card"), signed by one "M Simon" on 9/20/02, and of our PROOF OF SERVICE of said SUBPOENA, are also enclosed for your information.

The stated deadline for your specific compliance with said SUBPOENA is November 1, 2002 A.D. (approximately two (2) weeks hence).

Please be advised that, if you fall silent in the response to this lawful and valid command, now issued by the Clerk of the federal district court in Santa Ana, California, we will move the appropriate federal court to compel an answer from you.

We also reserve our fundamental Right to petition one or more federal courts for an ORDER holding you in contempt of court, in the event that you elect to fall silent. See the Petition Clause in the First Amendment, for constitutional authority.

The federal courts (and cases) in question have already been itemized in our Directions for Delivery (see copies enclosed).

Mr. Secretary O'Neill, thank you very much for your timely and professional consideration.

1       Sincerely yours,

2       /s/ Paul Andrew Mitchell



5       Paul Andrew Mitchell, B.A., M.S.

6       Private Attorney General, 18 U.S.C. 1964(a)

7       <http://www.supremelaw.org/decs/agency/private.attorney.general.htm>

8       All Rights Reserved without Prejudice

9       copies: Dr. Tally H. Eddings, II, M.D., Fern Park, Florida

10       Dr. John C. Alden, M.D., Oakland, California

11       Rep. Ron Paul, Member, U.S. House of Representatives

12       Judge Alex Kozinski, Ninth Circuit (supervising)

13       Justice Sandra Day O'Connor, Supreme Court (supervising)

14       Office of the President, The White House, Washington, D.C.

15       attachments